

MEMBERSHIP PROCEDURES

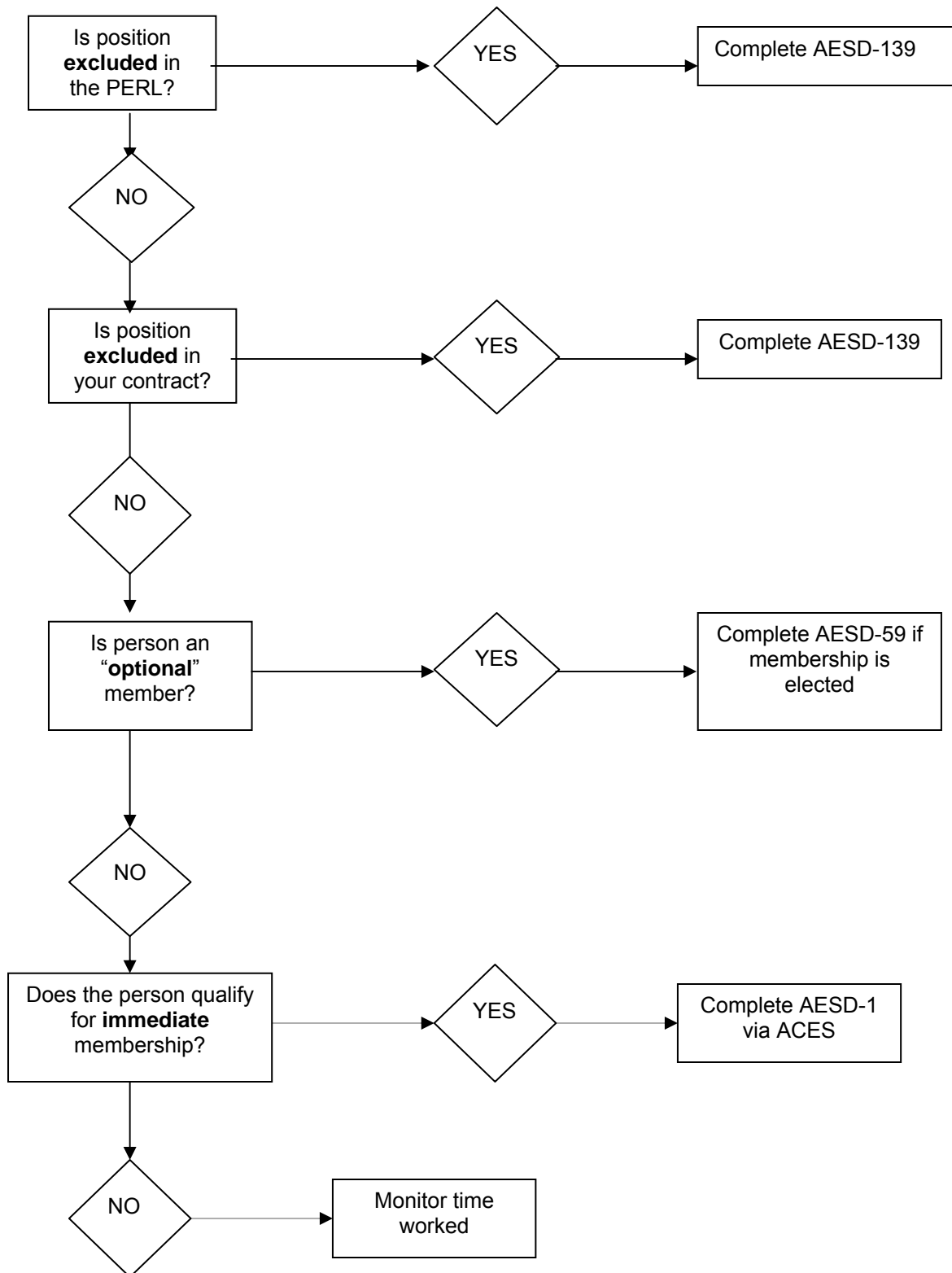
TABLE OF CONTENTS

<u>Determining Membership Eligibility</u>	18
<u>Positions Excluded by Retirement Law (PERL)</u>	19
<u>Optional Members</u>	21
<u>Membership Eligibility</u>	24
<u>Alternate Retirement Plan Flow Chart</u>	28
<u>School Employment: CalPERS or CalSTRS?</u>	29
<u>CalPERS/CalSTRS Flow Chart</u>	32
<u>Membership Categories</u>	33
<u>Electronic Enrollment (ACES)</u>	43
<u>Member Action Request Information (PERS-AESD-1)</u>	44
<u>PERS-AESD-1 Downloading Instructions</u>	44
<u>PERS-AESD-1 Sample Form</u>	45
<u>Election of Optional Membership</u>	46
<u>PERS-AESD-59 Instructions</u>	48
<u>PERS-AESD-59 Sample Form</u>	49
<u>Overtime Positions</u>	50
<u>Birth Date Discrepancy</u>	51
<u>Notice of Change (PERS-MEM-155) Instructions</u>	52
<u>PERS-MEM-155 Sample Form</u>	53
<u>Full Reciprocity</u>	54
<u>Reciprocity Requirements</u>	55
<u>Rights and Benefits with Full Reciprocity</u>	56
<u>Benefits for Non-Qualifying Individuals</u>	57
<u>Benefits Arising from Movement / Reciprocal and Non-Reciprocal Systems</u>	58
<u>How to Notify CalPERS when a Member Changes Retirement Systems</u>	59
<u>Employer Certification of Service Credit Purchase Options</u>	60
<u>Additional Information for Service Credit Purchase Options</u>	65
<u>Contribution / Rate Adjustment (PERS-MEM-823A)</u>	66
<u>PERS-MEM-823A Sample Form</u>	67

The information provided in this publication is for your convenience and reference as a general guide only and cannot be relied upon as an authoritative source for the law, practices, or policies of CalPERS. While CalPERS tries to include only accurate, timely and complete information in its publications, summaries, guidelines and other advisory printed materials, sometimes information provided in printed materials may be or become inaccurate, untimely, incomplete, unclear or misleading. In all instances, the law then in effect, not this publication, controls the application of the Public Employees' Retirement Law. It is the reader's responsibility to independently verify the accuracy of the information contained in this publication before engaging in a course of action.

THIS PAGE INTENTIONALLY LEFT BLANK

DETERMINING MEMBERSHIP ELIGIBILITY



POSITIONS EXCLUDED BY RETIREMENT LAW (PERL) FROM CALPERS COVERAGE

The following is a list of positions that are excluded from CalPERS coverage as stated by California Public Employees' Retirement Law (PERL):

PERSONS WHO ARE NOT "EMPLOYEES" OF A CALPERS-COVERED AGENCY

Only compensated "employees" of agencies contracting with CalPERS for retirement coverage are eligible for CalPERS membership. CalPERS uses the "Common Law Control Test" as a guide to determining whether or not an individual is an employee, as well as which entity (if more than one) is purportedly employing a worker.

The Supreme Court decision in the case of Metropolitan Water District of Southern California v. Superior Court of Los Angeles (32 Cal. 4th 491) may be referenced for additional guidance in this area. The Court concluded that the law "requires contracting public agencies to enroll in CalPERS all common law employees except those excluded under a specific statutory or contractual provision." This decision also cited the Tieberg v. Unemployment Ins. App. Bd. Case (2 Cal.3rd 949), which stated that, "The right to control the means by which the work is accomplished is clearly the most significant test of the employment relationship."

INDEPENDENT CONTRACTORS

Independent contractors are not "employees" and are excluded from membership in CalPERS by G.C. section 20300(b). An independent contractor is someone who contracts to do a piece of work according to his or her own methods, and is not subject to the contracting entity's control as to the end product, final result of work, or manner and means by which the work is performed.

CalPERS also uses the "Common Law Control Test" as a guide to determining independent contractor status.

A "contract employee" (i.e., a common law employee who periodically signs an employment contract) is eligible for CalPERS membership, if otherwise qualified.

NOTE:

CalPERS commonly corresponds with agencies (e.g., sends a questionnaire to be completed by both the worker and the contracting entity) in order to determine whether a worker is an "employee" of a CalPERS covered agency, an employee of a non-CalPERS agency, or is an independent contractor. It is important that such questions be answered authoritatively by an appropriate certifying officer at your agency, since the employer may be liable for arrears costs (if membership is determined to be applied retroactively), or for service credit purchased by the employer, if the worker is found to be an "employee" of your agency.

MEMBERS OF OTHER RETIREMENT SYSTEMS

Persons who are receiving credit in another public retirement system (federal, state, county, city, or other local) are excluded from receiving credit with CalPERS for that same service by G.C. section 20303.

NOTE:

Persons can have actively-employed membership in two or more public retirement systems (e.g., CalSTRS and CalPERS), as long as it is for different positions.

ELECTED OR APPOINTED OFFICERS

G.C. sections 20322-20325 exclude certain public officers and employees from membership unless an election is filed with CalPERS to elect membership. Those persons qualifying for such optional membership are predominately, but not exclusively, elective and appointive officers of public agencies and schools.

Refer to the "Optional Members of CalPERS" section for more complete information to determine who is thus excluded, but also eligible under "optional" member provisions.

STUDENT ASSISTANTS/AIDES

A student in public school who is also employed in the same district in which he/she is a student and whose student status is a prerequisite for employment, is excluded from CalPERS membership by G.C. section 20300(c).

TEMPORARY TEACHER-ASSISTANT CERTIFICATE

Persons employed as teacher-assistants under Education Code section 44926 (who possess a temporary certificate to serve as a teacher-assistant, and are enrolled in a California teacher training institution) are excluded from CalPERS membership by G.C. section 20300(d).

PROFESSIONAL LEGAL SERVICES TO A CITY

Persons rendering professional legal services to a city are excluded under G.C. section 20300(h) with the exception of persons in one of the following offices/positions:

1. The office of city attorney;
2. The office of assistant city attorney; or
3. An established position of deputy city attorney.

However, a city attorney, assistant city attorney, or deputy city attorney, may also be eligible for the "optional" member provisions of G.C. section 20322. Refer to the "Optional Members of CalPERS" section for further information.

INMATES OF PUBLIC AGENCY INSTITUTIONS

Such persons (e.g., a prison/penitentiary or mental hospital) are excluded from CalPERS membership by G.C. section 20300(a), even if receiving compensation for such services as they perform.

BOARD MEMBERS OF THE STATE COMPENSATION INSURANCE FUND

Board Members of the State Compensation Insurance Fund, including those appointed by the Governor.

ADDITIONAL INFORMATION

CONTRACT EXCLUSIONS (PUBLIC AGENCIES ONLY)

G.C. section 20502 gives CalPERS authority to grant to contracting agencies exclusions from CalPERS coverage. Such exclusions may not be made for individual employees (e.g., City Manager, Fire Chief, etc.) but must be for groups of employees, in categories such as by departments or duties (e.g., Lifeguards; Crossing Guards; federally-funded non-civil service employees, etc.).

Any current exclusions in your agency's CalPERS contract will be shown in your Annual Employer Statement. CalPERS Board [Resolution MSD-97-01](#) provides the criteria used to review and approve/deny requested contract exclusions. As a general guideline, the exclusion of groups of employees who are career employees, or could reasonably be anticipated to become career employees, is not permitted.

Such exclusions, when granted, are effective only with respect to future entrants into such a group; persons employed in this group prior to the exclusion are not affected by the addition of such an exclusion, even if they have not yet qualified for CalPERS membership.

INVALID/SUPERSEDED CONTRACT EXCLUSIONS

There are some agencies with contract exclusions which were granted prior to January 1, 1975, where the basis for the exclusion was the "temporary" or "seasonal" employment base of the employees. Such exclusions have been superseded by G.C. section 20305; therefore, such exclusions no longer apply with respect to employees entering such employment after January 1, 1975.

G.C. section 20305(b) states that this section "shall supersede any contract provision excluding persons in any temporary or seasonal employment basis and shall apply only to persons entering employment on or after January 1, 1975. Except as provided in G.C. section 20502, no contract or contract amendment entered into after January 1, 1981, shall contain any provision excluding persons on an irregular employment basis."

Employees not excluded by contract must still meet the normal criteria for membership in CalPERS.

"OPTIONAL" MEMBERS OF CALPERS

NOTE:

Changes in legislation have made "optional" member eligibility determinations more complex. This section provides basic information by employer and/or "optional" position category to assist in making those determinations. However, if you have any questions concerning "optional" membership eligibility or rights, we encourage you to contact us.

The Government Code provides "optional" membership rights for certain public officers and employees. Those eligible "optional" members are excluded from membership unless and until a written election for membership is filed with CalPERS. (Refer to the **Election of Optional Membership** (PERS-AESD-59) section for instructions on how to establish "optional membership." This form can be downloaded on the CalPERS Web site.) Membership becomes effective from the date the election is signed and sent to CalPERS.

Once membership has been elected, an "optional" member may elect to contribute and receive service for previous qualifying employment. See the publication **CalPERS Service Credit Purchase Options** (PUB-12) for more information.

When an "optional" member purchases credit for prior employment, it will not change the membership date.

GENERAL PRINCIPLES

1. Elected or appointed officials who do not receive "compensation" other than reimbursement of expenses (or who waive such compensation) can not be reported in membership, or receive service credit.
2. Once membership is elected and established, "optional" members are generally subject to the same CalPERS laws and regulations that apply to compulsory members (except as stated below).
3. There is no government code provision to allow for cancellation of membership prior to separation from employment. Once elected, membership must be continued for all future

consecutive "optional" member positions with the same employer as long as the future positions are not excluded by law or contract.

4. For members of a City Council or County Board of Supervisors first elected or appointed on or after July 1, 1994 (unless continuously in employment since June 30, 1994), final compensation at retirement for service in this office will be based *only* on salaries earned in such office. (G.C. section 20039)
5. Optional members as listed below receive full-time service credit and are deemed full-time employees for all CalPERS purposes (G.C. section 20899). Therefore, contract exclusions of less than full-time employees do not apply to them

NOTE: Such full-time status may result in an overtime situation, if the member has any other concurrent CalPERS positions. (See "Overtime Positions" section for more information.)

Optional members at public agencies and schools are those defined by G.C. section 20322, to include the following groups:

ELECTIVE OFFICERS

Persons elected by vote of the people (e.g., Mayor, City Council members, County Supervisors, Sheriff, District Attorney, City Clerk, etc.). This also includes persons who are appointed to fill the unexpired office of an elective officer (e.g., a person appointed by a City Council to fill the remainder of a term for a member who resigns; or dies in office).

NOTE:

County Board of Education members are considered, for CalPERS purposes, as employees of the county, rather than employees of the County Superintendent of Schools, even if the board is fiscally independent of the county. Therefore, the county must contract for CalPERS coverage for such persons to be eligible, unless it provided G.C. section 20361.2 prior to its repeal effective July 1, 1994.

APPOINTIVE OFFICERS OF A CITY OR COUNTY

Persons who are appointed to a “fixed term of office” with a city or county are included in the definition of “elective officer” by G.C. section 20322(b). Such officers are listed in G.C. sections such as 24000, 36501, etc.

CITY ATTORNEY

Persons holding this office, provided they are common law employees, are eligible for “optional” membership in certain conditions:

- Prior to March 4, 1972, an elected City Attorney was an “optional” member. (An appointed City Attorney was not, but was subject to compulsory membership, if meeting the normal time base/appointment length qualifications for membership.)
- From March 4, 1972 through June 30, 1994, all City Attorneys were defined as “elective officers” and thus “optional” members whether or not they were actually elected to office.
- After July 1, 1994, all City Attorneys are excluded from the definition of “elective officer.” Thus, even if they are elected to office, they no longer are considered “elective officers” or “optional” members for CalPERS purposes. Consequently, they must now meet the normal time base/appointment length qualifications for membership. In addition, City Attorneys must take an oath prescribed by the constitution before entering the office. Failure to take and file the constitutional oath of office results in a vacancy in the office.

In addition to these, between January 1, 1986 and June 30, 1994, an Assistant/Deputy City Attorney in a city that had contracted for G.C. section 20361.3 (now repealed, but still applicable for an agency that contracted for it while it was law) was included in the definition of “elective officers,” and was thus an “optional” member - even though the individual had not been elected to office.

PART-TIME EMPLOYEES

Employers can contract for G.C. section 20325, to allow all part-time employees who work less than 20 hours a week for one year or more to elect “optional” membership. However, few

employers contract for this provision.

If such an amendment or resolution is adopted, all employees eligible to elect membership are automatically subject to the same Social Security coverage provided for members whether or not they elect membership. If such an eligible employee wishes to elect “optional” membership, they should complete the ***Election of Optional Membership - Part-Time Employee (PERS-AESD-229)*** form, which can be downloaded from the CalPERS Web site.

EXCLUSIONS FROM MEMBERSHIP

Since July 1, 1994, a large number of persons who formerly had “optional” membership rights have been excluded from membership entirely. Thus, not only are they no longer “optional” members, they are no longer eligible for CalPERS membership at all.

Those excluded are members of commissions, boards, councils, or similar legislative or administrative bodies (e.g., water districts, sanitation districts, redevelopment agencies, transportation commissions, etc.). Regular employees of such agencies are not excluded; only the members of the governing board of such bodies.

City Council members and members of a County Board of Supervisors are specifically not excluded from membership by these law changes, and remain eligible for “optional” membership (G.C. section 20322(c)).

Elective/appointive officers who are not serving on administrative bodies also remain eligible to elect “optional” membership (e.g., District Attorney, City Clerk, County Counsel, City Treasurer, etc.).

The exclusions only apply to persons first elected or appointed to office on or after July 1, 1994 (or on or after January 1, 1997), who did not continuously remain in their office.

A person who was first elected/appointed prior to July 1, 1994 and who continuously remained in this office, does still have the right to elect “optional” membership. For example, a person who was elected in 1990 and has remained continuously in the same office but has not yet elected “optional” membership, has the right to elect membership; whereas a person first elected

in 2000 does not have the right, and would be excluded from membership. The excluded positions are:

SCHOOL BOARD MEMBERS

Are excluded if they are first elected/appointed to their position July 1, 1994 or later (unless they have been continuously in the same position since before July 1, 1994).

ELECTED/APPOINTED OFFICERS OF ADMINISTRATIVE BODIES OF NON-CITY/COUNTY CONTRACTING AGENCIES

Members with a contracting agency other than a city or county are excluded if they are first elected/appointed to their position July 1, 1994 or later (unless they have been continuously in the same position since before July 1, 1994).

ELECTED/APPOINTED OFFICERS OF ADMINISTRATIVE BODIES OF ANY CONTRACTING AGENCIES

Members are excluded if they are first elected/appointed to their position January 1, 1997 or later (unless they have been continuously in the same position since before January 1, 1997). As stated above, City Council members, and County Supervisors are not excluded.

CALPERS MEMBERSHIP ELIGIBILITY

If a person is currently a member of CalPERS (i.e., has contributions/service on account that have not been refunded), the person cannot be excluded from membership due to her/his time base (e.g., working less than 20 hours per week) or appointment length (e.g., 90 days). Therefore, persons who are currently members of CalPERS do not need to re-qualify for membership. This applies even if their membership was established through employment with another CalPERS agency, or if they are not currently working (i.e., are on inactive status) with a CalPERS-covered agency.

A CalPERS member should not continue to be reported in membership when:

- The person enters a position that is excluded by law (other than due to time base/appointment length), or by an agency's contract.
- The person enters a position eligible for optional membership; the individual must submit an election of optional membership in order to be a member in such a position. (See "Optional Members of CalPERS" section for more information.)
- The person enters a position that is also in membership with another public retirement system. (See "Positions Excluded by Retirement Law (PERL) from CalPERS Coverage" section.)
- The person is subject to an Alternate Retirement Plan (ARP) under G.C. section 20306. (See discussion on page 27 of this section).
- The position is deemed to be an Overtime position (i.e., the person is working more than a full-time CalPERS-covered position; see discussion of "Overtime Positions" on page 50 of this section).
- The person is legally working after retirement. (The laws for post-retirement employment are different from the laws for membership; refer to the "Employment of a Retiree" section for more information.)

If a person has retirement contributions/service credit on deposit with CalPERS, or if they have met the criteria for membership (e.g., have completed 1,000 hours of service in a fiscal year) but have not actually been enrolled yet, they are by law a member of CalPERS, even if the employer has not yet reported payroll to CalPERS on their behalf.

Once in membership, a person remains in membership until (1) they take a refund of contributions after permanently separating from CalPERS-covered employment, or (2) they retire.

You can determine whether or not a person is currently a member of CalPERS by:

1. Asking the employee (be aware that some employees may be mistaken about this),
2. Using the Participant Inquiry function of the ACES system, and/or
3. Contacting the CalPERS Customer Contact Center.

It is recommended that an employer retain documentation (e.g., **Notice of Exclusion From CalPERS Membership Form** PERS-AESD-139 on which the employee indicates "Not a CalPERS member"; or printouts of the ACES Participant Inquiry screen, etc.) to demonstrate that such an inquiry was made, in order to guard against possible G.C. section 20283 liability in the future.

It is also recommended that employers determine whether the employee has any other CalPERS-covered employment that could potentially place the employee in an "overtime" situation (e.g., if the employee is working more than full-time), to avoid having to make adjustments later.

IMMEDIATE MEMBERSHIP UPON HIRE

Many employees should enter CalPERS membership immediately upon employment (G.C. section 20281), namely:

- Employees hired to work full-time more than six months.
- Employees working “regular, part-time service,” who work “at least an average of 20 hours a week” for one year or longer.

However, there are also some employees who must work a certain number of hours/days (commonly referred to as “qualifying time”) before they are eligible for membership, and who therefore should be carefully monitored, such as the following:

FULL-TIME EMPLOYEES

CalPERS considers full-time employment to be between 34 and 60 hours per week. Employers generally have the ability to determine what constitutes full-time for an employee provided that the employee works between 34 and 60 hours per week. However, G.C. section 20636.1 specifies that for all non-certificated school members full-time is considered 40 hours per week. This means that all hours up to 40 hours per week must be reported to CalPERS for non-certificated school members at the straight time rate.

Persons in full-time employment whose appointment/employment does not fix a term of employment longer than six months should be monitored; if full-time employment actually continues for more than six months, membership is compulsory, and the effective date of membership can not be later than the first day of the first pay period of the seventh month of employment.

LESS THAN FULL-TIME EMPLOYEES

The most important and commonly used standard to consider for the membership eligibility of less than full-time employees is whether they work 1000 hours (if paid on an hourly basis) or 125 days (if paid on a daily or per diem basis) in a fiscal year (July 1 through June 30). (G.C. section 20305(a)(3)(B) states that 125 eight-hour days equals 1000 hours.)

Since the “overtime” provisions of G.C. section 20635 apply only to members of CalPERS, overtime service is included in computing the 1000 hours or 125 days.

Time during which the member is paid for time excused from working due to vacation, sick leave, etc., is included in the 1000 hours.

QUALIFICATION WHEN WORKING MORE THAN ONE POSITION

These criteria above can be met by employees who are working more than one position under the same employer; therefore, service with all positions with an employer (including both safety and miscellaneous positions) should be considered in determining membership qualification. For example, a person working a permanent 10-hour a week position, and a permanent 12-hour a week position with the same employer, would qualify for membership immediately, by virtue of combining the service of both positions to meet the 20-hour a week minimum.

All employees of a school district - with the sole exception of School Safety Members - are considered to be employees of the County Superintendent of Schools, and thus of the same employer for CalPERS purposes; (G.C. section 20610). Therefore, service with different districts (including charter schools) within the same county should be added together for purposes of meeting the membership criteria.

Service with different CalPERS-covered agencies, however, such as a city and a special district; or a school district and a State agency or school districts in two different counties, should not be combined for membership qualification purposes.

A school district/county office of education that contracts separately for school safety members, or that participates in a risk pool, is a separate public agency by law, and therefore such service would be kept separately when determining qualification.

EMPLOYEES WHO MUST BE MONITORED

Qualification for membership is reached when:

1. The person's full-time employment continues longer than six months (e.g., an employee may have been hired on a full-time indefinite basis to fill in for a worker who is out due to serious illness for an unknown period of time, where the worker ends up working more than six months). In such case, the effective date of membership is not later than the first day of the first pay period of the seventh month of employment (e.g., if employee completes six months of employment on September 23rd, she or he should be enrolled no later than the first pay period of October).
2. The person works 1,000 hours in a fiscal year (if paid on other than a daily or *per diem* basis). Any overtime hours worked are counted toward these 1,000 hours. Time during which the member is paid for time excused from working due to vacation, holiday pay, sick leave, etc., is included in the 1,000 hours.
3. The person works more than 125 days in a fiscal year (if paid on a daily or *per diem* basis). For this purpose, "day" means each 8 hours of compensated service; e.g. a firefighter working a 24-hour shift is working 3 such "days" per shift.

In cases where employees qualify based on completing 1,000 hours or 125 days, membership becomes effective no later than the first day of the first pay period of the month following the month in which 1000 hours or 125 days were completed (e.g., if an employee completes 1,000 hours on May 31st, membership can be effective no later than the first/next June pay period. If the employee completes 1,000 hours on June 1st, membership can be no later than the first July pay period).

FURLOUGH LEGISLATION-SCHOOL EMPLOYERS

Legislation passed in 2010 added G.C. section 20969.2 to the Public Employees' Retirement Law. This legislation ensures that certain persons subject to mandatory furloughs will not have their CalPERS retirement benefits impacted due to the furlough.

MEMBERSHIP ELIGIBILITY AND FURLOUGHS

The work hours of employees who do not have a fixed term of appointment and who work on a seasonal, limited-term, on-call, emergency, intermittent, substitute, irregular or other part-time basis as outlined in G.C. section 20305 should be monitored to determine the point at which service that would have been credited but for the mandatory furlough would have qualified the employee for membership in CalPERS. The hours that an employee would have worked had the employee not been subject to mandatory furloughs should be counted toward qualification of CalPERS membership.

SUMMARY OF GENERAL PRINCIPLES

The general principles to follow to determine when and if someone is eligible for membership (if not excluded by contract or by law) are as follows:

1. Persons who are already members of CalPERS are not excluded from membership because they are working less than full-time. [G.C. section 20305(a)(1)]
2. Non-members enter membership immediately upon appointment to a position with one of the following conditions:
 - a. The appointment/employment contract (written or verbal) fixes a term of full-time, continuous employment in excess of six months.
 - b. The position requires regular, part-time service for at least an average of 20 hours per week for one year or longer.
3. Persons not meeting either of these conditions must be monitored to determine when and if they qualify for membership by working 1,000 hours or 125 days in a fiscal year.

NOTE: Not all employees must work 1,000 hours before qualifying for CalPERS membership, but only employees who are not already members, and those not meeting the "full-time, more than 6 months" or "at least an average of 20 hours per week for one year or more" standards discussed above.

FAILURE TO ENROLL MEMBER ON A TIMELY BASIS

It is the employer's responsibility to determine if its employees are eligible to participate in CalPERS. If an employer has failed to enroll an eligible employee into CalPERS membership within 90 days of qualifying, when the employer knows or can reasonably be expected to have known of that eligibility, the employer shall be required to pay all arrears costs for member contributions, as well as administrative costs of \$500 per member. (G.C. section 20283)

Please note that the administrative cost is not a fee or penalty to the agency – rather, it is a reimbursement to CalPERS for costs associated with the process of administering such retroactive enrollment of members.

Employers will not be billed directly for the employer share of contributions; rather, the employer share of the cost will be paid by transfer of funds from the Employer's Reserve Account, and by future adjustments in the employer's contribution rate. The employer shall not pass on to an employee any costs assessed due to untimely enrollment.

Employers are presumed to be knowledgeable of all areas covered in this Procedures Manual, as well as in Circular Letters, and other standard CalPERS publications. If you encounter an unusual situation not addressed in any of these forums, we would strongly urge you to contact us in advance for advice about such situations, so that we can review the facts and advise you appropriately.

NOTICE OF EXCLUSION FROM CALPERS MEMBERSHIP

For employees who do not qualify for CalPERS membership, the **Notice of Exclusion from CalPERS Membership** form (PERS-AESD-139) should be completed, and given to the employee in order to inform them of the specific reason for their exclusion and to fulfill the employer's responsibility of notification. Do not send copies of this form to CalPERS; however, a copy should be kept with the employee's records.

Having a copy of this form in an employee's records is another useful way of supporting an employer's lack of responsibility under G.C.

section 20283—particularly with regard to the employee's current CalPERS "member" status.

ALTERNATE RETIREMENT PLAN (ARP) G.C. SECTION 20306 (PUBLIC AGENCIES AND SCHOOLS)

G.C. section 20306 provides that public agencies and school districts that have an alternate retirement plan established as a pension trust¹ prior to July 1, 1997 must conduct an election among their non-safety members who are credited with less than five years of CalPERS service to determine whether they want to (1) retain their usual active CalPERS membership, or instead (2) participate in the alternate retirement plan if their time base drops below the minimum membership thresholds (e.g., 20 hours per week) specified in G.C. section 20305.

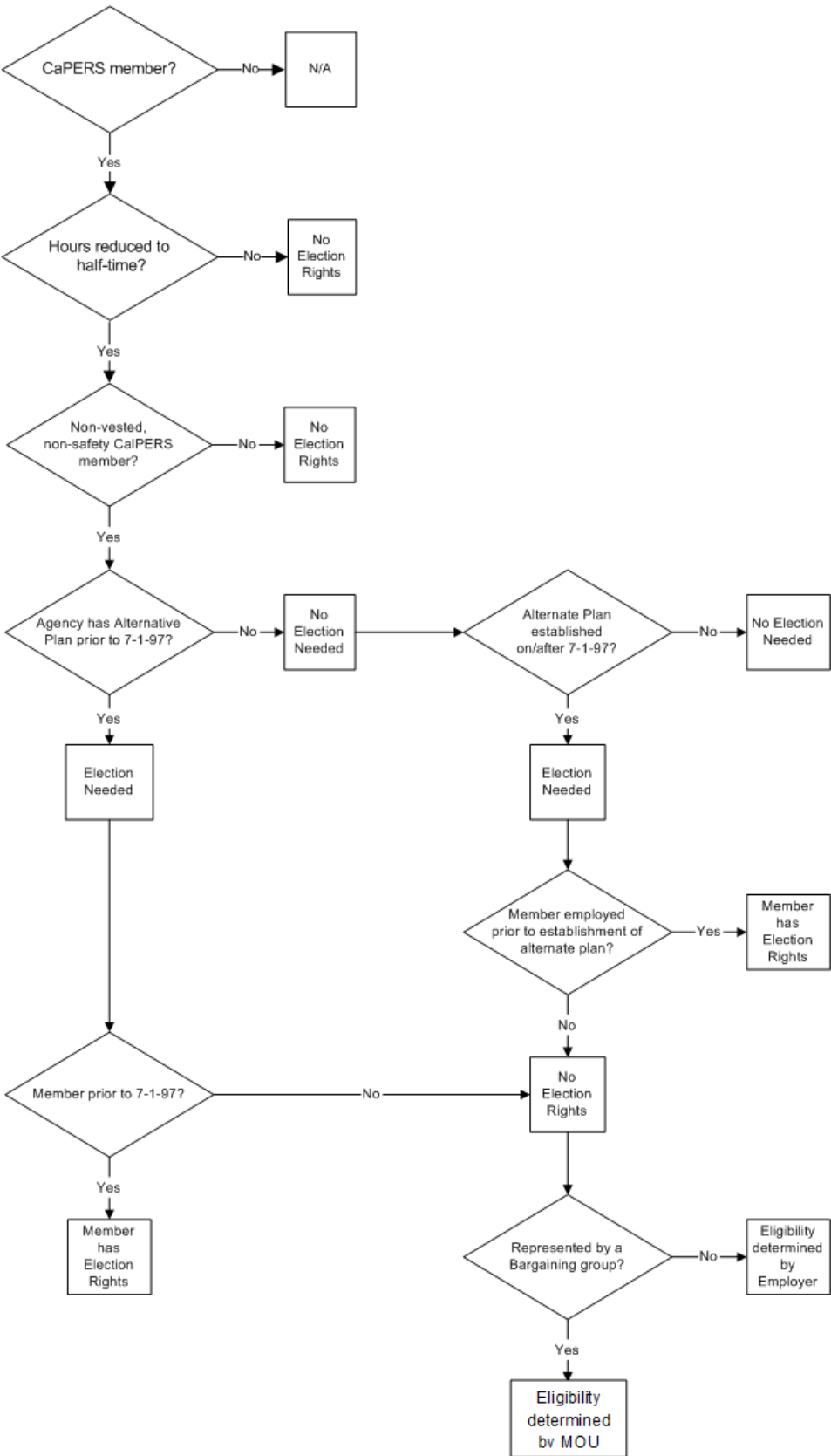
Employees entering employment after the original ARP election are mandated into ARP coverage if they (1) work less than the G.C. section 20305 threshold, and (2) have less than 5 years of service credit. The employer will determine new employees' ARP status (based on any election they made; their 20305 qualification status; and whether or not they have 5 years of service), as follows:

- For employees subject to collective bargaining, their MOU will determine their eligibility to participate in the ARP or CalPERS.
- For employees not represented by a bargaining group, the public agency shall determine the employees' eligibility to participate either in CalPERS or the alternate retirement plan if their time base falls below CalPERS membership thresholds.

See the "Eligibility to Participate in the CalPERS/Alternate Retirement Plan Election" flow chart on the following page for more information or contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

¹ "Article 1.5 (commencing with section 53212) of Chapter 2 of Part 1 of Division 1 of Title 5"

Eligibility to Participate in the CalPERS/Alternate Retirement Plan Election



SCHOOL EMPLOYMENT: CALPERS OR CALSTRS?

Public school positions in California are divided into two basic types:

1. **CERTIFICATED:** An employee in a position requiring certification qualifications by or pursuant to the Education Code. Credentialed employees (e.g., teachers, administrators, health care, library media workers, etc.) are all in certificated positions.
2. **CLASSIFIED:** An employee in a non-certificated position (e.g., office workers, custodial staff, cafeteria workers, etc.).

In general terms, employees in certificated positions are, upon meeting normal qualification requirements, eligible for membership in the California State Teachers' Retirement System (CalSTRS), while classified employees may be eligible for membership in CalPERS.

Pursuant to G.C. sections 20300(g), 20501 and 20610, CalPERS can cover school employees only with respect to employment in which they are not eligible for CalSTRS coverage. Some persons who are employed in positions covered by CalSTRS or CalPERS may not actually qualify for membership in either system (due to part-time or temporary/seasonal, non-qualifying, etc.); thus, some school employees may not be members of either system until their working hours or conditions change.

The Education Code (which contains the laws governing CalSTRS) contains two basic provisions, which may give persons certain rights with regard to choosing coverage under one system or the other.

Education Code Section 22508(a): A person who is a CalSTRS member, who subsequently is employed by a school district, community college district or a county superintendent (or by the State in other certain cases; see "Inclusion" section) in a position which requires CalPERS membership (i.e., a classified school position), will enter CalPERS membership in the new position. However, he or she may elect to remain a member of CalSTRS in the new position.

INCLUSION OF CERTAIN STATE EMPLOYEES

1. Employees in Certain State Bargaining Groups

SB 1694 (Chapter 880, Statutes of 2000) amended Section 22508 of the Education Code, and now provides that this same election right will be given to CalSTRS members that enter State employment where one of the following conditions apply:

[Education Code Section 22508(b)]

- a. The employee is represented by a State Bargaining Unit that represents educational consultants, professional educators, or librarians employed by the state; OR
 - b. The employee is excluded from the definition of "State employee" in G.C. section 3513(c), yet performs, manages or supervises work similar to employees under subparagraph "a" above; OR
 - c. The employee is in a non-civil service position in the Executive branch, yet performs, manages or supervises work similar to employees under subparagraph "a" above.
2. Persons Entering State Second-Tier Membership Between July 1, 1991 and September 11, 2000

AB 649 (Chapter 402, Statutes of 2000) added section 22508.6 to the Education Code and section 20309.5 to the Government Code, and provides that a "vested" CalSTRS member who enters State employment subject to the Second-Tier benefit plan may elect to have this service subject to CalSTRS rather than CalPERS, under the following conditions:

- a. The member must have entered State employment within 30 days of separation from CalSTRS-covered employment;
- b. The member must have had no other intervening employment;
- c. The change of employment occurred between July 1, 1991 and September 11, 2000;

- d. The member must be subject to the State Second-Tier.
- e. The member meets one of the following criteria:
 - 1. Is represented by a State Bargaining Unit that has agreed to an MOU making their represented employees subject to G.C. section 20309.5;
 - 2. Is excluded from the definition of "State employee" in G.C. section 3513(c), yet performs, manages or supervises work similar to employees under Subparagraph "a" above;
 - 3. Is in a non-civil service position in the Executive branch, yet performs, manages or supervises work similar to employees under Subparagraph "a" above.

RETIREMENT SYSTEM ELECTION G.C. SECTION 20309

A CalPERS member employed by a school district or a county superintendent, the State Department of Education, or the Board of Governors of the California Community Colleges, who then is employed in a position requiring membership in CalSTRS (i.e., a certificated position), will enter CalSTRS membership in the new position. However, he or she may elect to remain a member of CalPERS in the new position.

SB 1694 (Chapter 880, Statutes of 2000) effective 1/01/2001, amended section 20309 of the Government Code, and now provides that this same election right will be given to CalPERS members who enter employment that is requiring membership in CalSTRS where the member is employed by the State Board of Governors of the Community Colleges or the State Department of Education;

SB 165 (Chapter 77, Statutes of 2001) again amended G.C. section 20309, which will also allow CalPERS members with five years of CalPERS credited service, who entered employment on or after January 1, 2002 in a position requiring membership in CalSTRS, the right to elect to remain in CalPERS. The five years of service accrued under CalPERS can be with the State of California, a Public Agency, a County School, or a combination thereof.

These elections must be made in writing on the **CalSTRS Retirement System Election form ES-372 (05-09)**. The election must be filed with the elected retirement system within 60 days of entry into the new position that qualified for the election right. The election must be signed and dated by both the employee and employer and include the date the employee entered the new position.

A copy should also be filed with the other retirement system.

Send elections to:

CalSTRS
P.O. Box 15275
Sacramento, CA 95851-0275

or

CalPERS
Customer Account Services Division/Unit 841
P.O. Box 942704
Sacramento, CA 94229-2704

This right of election arises when the employee enters a position or has a major change in conditions of employment that requires membership in the other retirement system. Once the person does (or does not) exercise this right of election within 60 days from their date of hire into the new position, this election is irrevocable and will remain in effect for all future school employment for that employer unless the person separates and receives a refund of all accumulated contributions and interest. In some cases the election right may arise again if the person changes districts and the position requires membership in the other retirement system.

NOTE:

The definition of a change in employment or position is subject to determination by CalSTRS.

Should the employee return to employment and upon qualification, the employee would become a member of the retirement system that they qualify for in that position. Use the chart following this section as a guide to determine the retirement system coverage for the employee.

The Education Code (which governs CalSTRS) and the Government Code (which governs CalPERS) contains the laws regulating this election coverage. The final decision in any questionable situation (e.g. acceptance of late elections) must be made by CalSTRS, not CalPERS. Qualification of the position for membership in each system is governed by the respective codes (Education Code for certificated; Government Code for classified and state).

DIFFERENCES BETWEEN CALPERS AND CALSTRS

There are a number of factors that might influence a person's decision about coverage under one system or the other. Some of the differences between the two systems are the following:

1. CalPERS members may or may not have Social Security coverage (most do), whereas CalSTRS members generally do not;
2. The Benefit Factors based on age for service retirement may be different;
3. The employee contribution rates may be different;
4. Persons entering membership in either system between July 1, 1980 and December 31, 1998 may not be eligible to convert unused sick leave credits to service credit at retirement.

We suggest you contact CalSTRS or the Customer Account Services Division at CalPERS if you have any specific questions or need additional information relating to an employee's choice of coverage.

A CalPERS/CalSTRS FAQ is available on www.calpers.ca.gov. You can also receive the publication **Join CalSTRS? Join CalPERS?** at www.calstrs.com or by calling CalSTRS.

CalSTRS (800) 228-5453
TDD (916) 229-3541

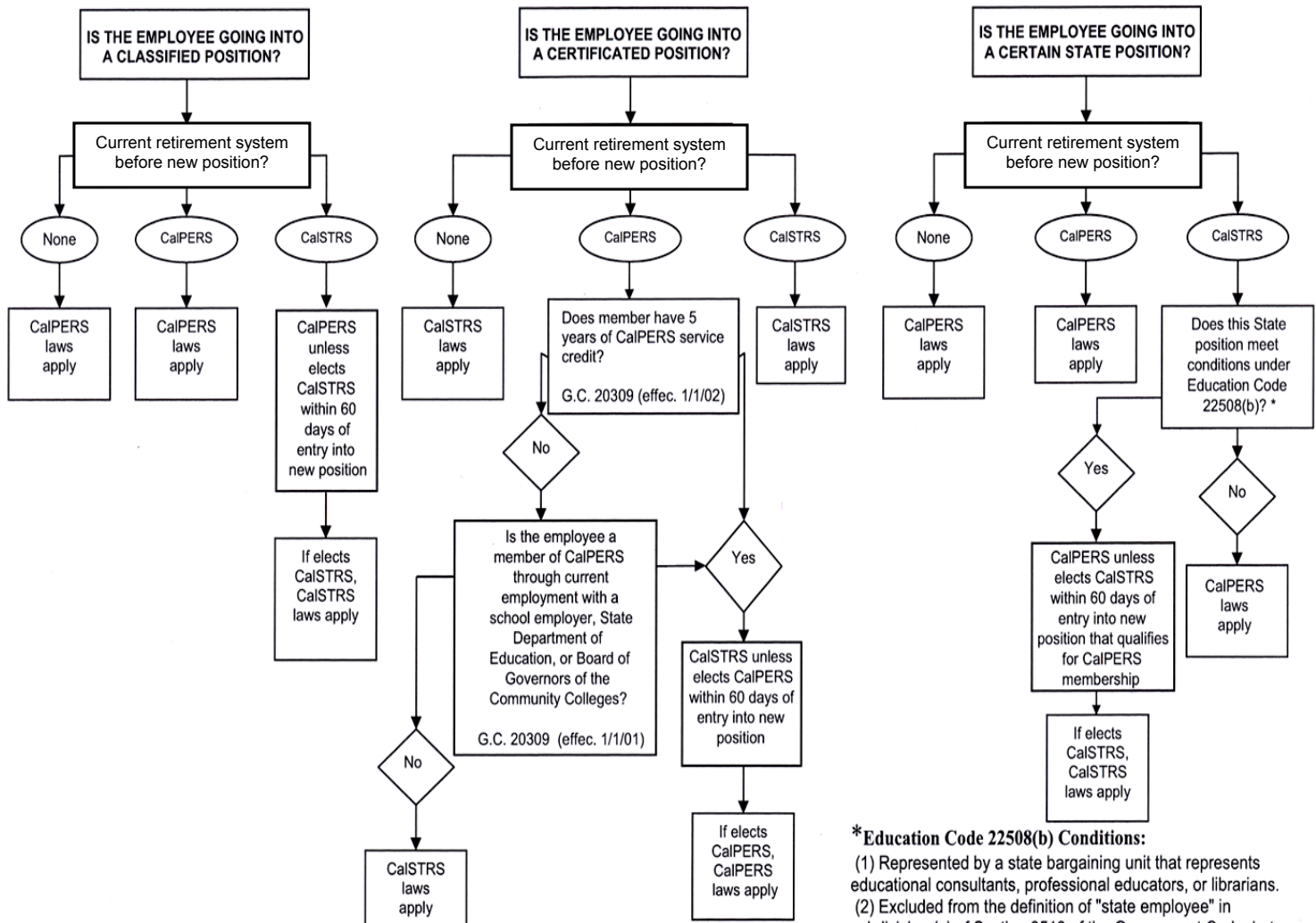
ADDITIONAL INFORMATION

1. A person is a member of CalPERS or CalSTRS unless they have permanently separated from all employment covered by the system and received a refund of his or her contributions and interest on deposit.
2. It is possible to be an active (i.e., currently employed) member of both CalSTRS and CalPERS as long as this dual coverage is for different positions.
3. As indicated by the Education Code 22509: the employer shall inform an employee, who has the right to make an election, within 10 days of the date of hire. The election shall become effective on the first day of employment that qualified the employee to make the election. The election is filed with the elected retirement system with a copy sent to the other retirement system. The right of election arises after one has been hired in a position that would be covered by the other retirement system.
4. Elected superintendent of school positions are subject to CalSTRS and are therefore not eligible for CalPERS membership.

You should also submit a **Member Action Request** (PERS-AESD-1) or appoint via ACES if the member is entering/leaving active CalPERS membership.

Use the chart following this section as a guide to determine the retirement system coverage for the employee.

CalPERS/CalSTRS RETIREMENT SYSTEM ELECTION



* Education Code 22508(b) Conditions:

- (1) Represented by a state bargaining unit that represents educational consultants, professional educators, or librarians.
- (2) Excluded from the definition of "state employee" in subdivision (c) of Section 3513 of the Government Code, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).
- (3) In a position not covered by civil service and in the executive branch of government, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).

MEMBERSHIP CATEGORIES

All CalPERS members employed by your agency will fall into one of the following general categories:

1. LOCAL SAFETY MEMBERS

This category “includes all local police officers, local sheriffs, firefighters, safety officers, county peace officers..., employed by a contracting agency who have by contract been included within this system.” (G.C. section 20420)

2. LOCAL MISCELLANEOUS MEMBERS

This category includes “all employees of a county office of education, school district, or community college district who are included in a risk pool and all employees of a contracting agency who have by contract been included within this system, except local safety members.” (G.C. section 20383)

3. SCHOOL MEMBERS

This category “includes all employees within the jurisdiction of a school employer, other than local policemen, school safety members and members included in a risk pool.” (G.C. section 20370(d))

4. SCHOOL SAFETY MEMBERS

This category includes “any officer or employee of a school district or a community college district which has established a police department...whose principal duties consist of active law enforcement service.” (G.C. section 20444). This category only applies to a school district or a community college district that enters into a contract with the board on or after January 1, 1990.

For most employers, all or the large majority of their employees will be in the “local miscellaneous” or “school member” categories rather than a “safety” category.

Determination of an employee’s membership category is based on the employee’s job classification and duties, compared to the standards defined in the Government Code, and as provided in the agency’s contract with CalPERS.

The Government Code provisions for the most common safety positions (e.g., police officer, firefighter, deputy sheriff, etc.) are all mandatory for contracting agencies whose contract includes such positions. There are a number of other provisions, however, for which a contracting agency may choose to contract if it so wishes, to provide safety membership to other employees, as well as to reclassify previous service with the same duties/job title in such classes. Your Annual Employer Statement will indicate if your agency has contracted to reclassify any positions from a miscellaneous to a safety category.

Your agency should be aware of the fact that, apart from the optional contract provisions to reclassify miscellaneous employees to the safety category, it is not permissible to report employees in a safety category whose job duties do not support such membership. You should refer to the definitions for Local Safety members on the following pages for the criteria for such membership.

Safety membership most commonly requires service having principal duties of providing either active law enforcement or active firefighting services. Such persons are known as safety employees because they are engaged in protecting the public safety, and may be exposed to physical risk during the course of employment. CalPERS relies upon an opinion of the Attorney General to define what is meant by the term “active” for safety service:

“It is suggested that active law enforcement work means ‘physically active’ work such as the arrest and detention of criminals... (T)he main reference is to duties which expose officers and employees to physical risk in the law enforcement field....” (22 Ops. Cal. Atty. Gen. 229)

Another important criterion in many of the sections defining safety membership is that a person be “employed and qualifying as patrol officers,” “employed and qualifying as patrolmen,” “employed and qualifying as firefighters,” or “employed and qualifying as deputy sheriffs,” irrespective of their current duties. Typically, such persons are referred to as sworn personnel, because they take an oath to uphold the Constitution, safeguard the lives and property of citizens, etc. This sworn criterion is particularly important for persons who are promoted up through the ranks to supervisory/managerial positions (e.g., sergeant, captain, chief, etc.), but who retain their sworn status after promotion.

Almost all agencies with safety classifications have established procedures in place (e.g., certification and/or academy training, physical fitness requirements, etc.) by which persons originally become qualifying as patrol officers, firefighters, or deputy sheriffs, and have standards (such as periodic physical fitness tests) which must be met in order to maintain such status. Such sworn personnel in supervisory or managerial positions who remain “employed and qualifying” as patrol officers, firefighters, or deputy sheriffs could (perhaps in special circumstances such as a major emergency, or a work stoppage) be required to return to typical safety duties; accordingly, the safety status of such an individual is appropriate, even though the person’s current duties may not frequently involve such “active law enforcement/firefighting” duties.

However, if a person gives up such qualifying/sworn status after accepting a promotion, and is no longer qualifying as such, safety membership can no longer be given for this service.

NOTE:

There are no provisions in the law that would allow a member or employer to pay the difference in contributions between miscellaneous and safety membership, in order to allow a miscellaneous member to be reported to CalPERS as safety.

EXCEPTIONS

There are some instances where persons have been given mandatory safety membership only if employed during a specific period of time. For example, legislation passed in 1987 (AB 839, Chapter 1411) brought certain miscellaneous members employed in positions such as, fire investigators, fire prevention officers, or fire trainers between January 1, 1988, and October 2, 1989, into safety membership as local firefighters. In such *exceptional* situations, it is possible to have some persons in the same job classification who are “safety” and some who are not, if they were hired at different times.

CAUTIONS

CalPERS has had cases where an employee was inappropriately retained in safety membership after receiving an appointment to a non-safety position (such as City Manager, or Director of Public Safety). Even if such a member was formerly in safety membership (e.g., as Police Chief or Fire Chief), safety membership cannot be given where the job duties do not support this status, and the individual is no longer a sworn member of a police department, fire department, etc.

Inappropriate membership classification is one of the key factors that are investigated by CalPERS field auditors and corrective actions will be taken upon discovery by CalPERS staff of such inappropriate classifications. Such retroactive corrective actions may include correction of service credit, retirement contributions paid, and adjustment of retirement allowance paid (if any). If you are unsure about the proper membership category for a given position, submit a job description/duty statement to CalPERS Customer Account Services Division (CASD), Membership Analysis and Design Unit for a determination. Such a review should also be requested upon establishing a new position, or upon making significant changes in the duties of a previously-reviewed position.

The following definitions for Local Safety Members will assist you in determining membership category:

MANDATORY SAFETY STATUS

LOCAL POLICE OFFICER

“Local police officer” means any officer or employee of a police department of a contracting agency which is a city, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as patrolmen or equal or higher rank irrespective of the duties to which they are assigned. (G.C. section 20425)

LOCAL FIREFIGHTER

“Local firefighter” means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned. (G.C. section 20433)

COUNTY PEACE OFFICER

SHERIFF AND SHERIFF’S OFFICERS

“County peace officer” means the sheriff and any officer or employee of a sheriff’s office of a contracting agency, except one whose principal

duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as deputy sheriffs or equal or higher rank irrespective of the duties to which they are assigned. (G.C. section 20436)

DISTRICT ATTORNEY’S OFFICE

INSPECTOR, INVESTIGATOR, DETECTIVE

“. . .any inspector, investigator, detective, or person with a comparable title, in any district attorney’s office of a contracting agency whose principal duties are to investigate crime and criminal cases and who receives compensation for such service.” (G.C. section 20436)

OTHER LOCAL SAFETY

OCEAN BEACH LIFEGUARDS

“Local safety member” also includes all employees of a city who have by contract been included within this system, and whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled in water areas at ocean beaches and the recovery from those water areas of submerged objects and bodies of persons drowned or believed to have drowned in those areas, or the immediate supervision thereof, including persons employed to perform the duties now performed under the titles of aquatics director, chief lifeguard, captain lifeguards, lieutenant lifeguards, beach lifeguard, but who performs additional duties, some of which (including the maintenance of peace and order and the apprehension of law violators) are customarily performed by police or peace officers, and whose other duties (such as resuscitation work involving the use of special equipment in cases having no connection with their principal duties) that in other areas are customarily performed by firefighters, and other and further duties that do not come directly within any of the above classifications but are essential to the safety and security of the public, excluding those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active life guarding or

lifesaving service, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active life guarding or lifesaving service.

This section does not apply to the employees of any contracting agency having a contract with the board made prior to September 18, 1959, until the agency elects to subject itself and its employees to the provisions of this section by amendment to its contract with the board pursuant to G.C. section 20474; except that an election is required only among the employees to whom the provisions of this section apply.

The amendments of this section, made by Chapter 130 of the Statutes of 1982 do not constitute a substantive change in the law and shall not be construed to entitle any person to any right or benefit that he or she was not already entitled to prior to December 31, 1982.

NOTE:

This provision is mandatory for all contracting agencies with CalPERS contract dates of September 18, 1959 or later. It is an optional contract provision for contracting agencies with CalPERS contract dates of prior to September 18, 1959. See Other Local Safety listing in this section (G.C. section 20421).

LOCAL SAFETY OFFICER

“Local safety officer” means any officer or employee of a public safety department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement or firefighting and prevention service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service, but not excepting persons employed and qualifying as patrol officers or equal or higher rank, or as firefighters, hose officers, or equal or higher rank, irrespective of the duties to which they are assigned.

“Local safety officer” does not include persons employed to perform identification or communication duties. This provision shall not apply to persons employed and qualified as patrol officers or equal or higher rank, or as firefighters, hose officers, or equal or higher rank. (G.C. section 20424)

OTHER SAFETY CLASSIFICATIONS — PROVIDED BY OPTIONAL CONTRACT PROVISIONS

The following classifications can be added to your safety categories by amending your agency’s contract. If your agency has contracted for these other safety classifications, they will be listed in your Annual Employer Statement.

It should be noted that many of these optional sections do not contain the “employed and qualifying” language that is used to give police officers, firefighters, sheriff’s deputies, etc. safety status when they promote into the supervisory/managerial ranks. Therefore, persons must be performing the specified duties in order to qualify for safety coverage under such sections.

RECLASSIFICATION

A member who is employed in a position that is reclassified from local miscellaneous to local safety (other than under the 2% @ 50, 3% @ 50, or 3% @ 55 retirement formulas) may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with the board within 90 days after notification by the board. (G.C. section 20443)

LOCAL POLICE OFFICER

JUVENILE BUREAU OFFICER

If provided for by your agency’s contract, “Local police officer” also includes any officer or employee of a juvenile bureau of a contracting agency whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. (G.C. section 20427)

PEACE OFFICER UNDER PENAL CODE, NOT WITH CITY OR COUNTY

If provided for by your agency’s contract, “local police officer” also includes any officer or employee of a contracting agency other than a city or a county who is a peace officer as defined in the Penal Code and whose principal duties

consist of active law enforcement but excluding clerical personnel or those whose principal duties are that of communication officer, identification officer, machinist, mechanic, security officer or are otherwise not clearly within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon to perform duties within the scope of active law enforcement. (G.C. section 20429)

CITY JAILERS

If provided for by your agency contract, "local police officer" also includes any employee of a contracting agency that is a city, who is employed in a jail or a detention or correctional facility and having as his or her primary duty and responsibility the supervision and custody of persons committed to the jail or facility. It shall not include persons employed as clerks, typists, teachers, instructors, or psychologists or to provide food, maintenance, health, or supporting services, even though responsibility for custody and control of persons so committed may be incident to, or imposed in connection with, that service. (G.C. section 20431)

LOCAL SHERIFF

If provided for by your agency's contract, "local sheriff" means any officer or employee of a sheriff's office of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as deputy sheriffs or equal or higher rank irrespective of the duties to which they are assigned. (G.C. section 20432)

Contracting for this section allows agencies to provide a different level of retirement benefits (e.g., retirement formula) to "local sheriff officers" than to "county peace officers."

COUNTY PEACE OFFICER

CONSTABLE, MARSHAL

If provided by your agency contract, "county peace officer" shall also include the constable and each regularly employed deputy constable and the marshal and each regularly employed deputy marshal who serves the superior court. He or she shall receive credit for service as a peace officer for any time he or she served as constable or deputy constable of a township or justice court or marshal or deputy marshal of a municipal court in the same county. (G.C. section 20437)

IDENTIFICATION AND/OR COMMUNICATION DUTIES

If provided by your agency contract, "county peace officer" does not include persons employed to perform identification or communication duties other than persons in that employment on August 4, 1972, who elected within 90 days thereafter to be local safety members. A contracting agency may elect by amendment to its contract to include as "county peace officer" all persons who were employed to perform identification or communication duties on August 4, 1972, and who elect within 60 days of the effective date of the contract amendment to be local safety members. The election shall apply to the person's past as well as future service in the employment held on the effective date but may not apply to service following any subsequent acceptance of appointment to a position other than that held on the effective date. This subdivision does not apply to persons employed and qualified as deputy sheriffs or equal or higher rank. (G.C. section 20436)

PROBATION OFFICER, JUVENILE HALL CUSTODY

If provided by your agency's contract, "county peace officer" shall also include probation officers, deputy and assistant probation officers, and persons employed in a juvenile hall or home and having as their primary duty and responsibility the counseling, supervision and custody of a group of youths assigned or committed to the hall or home. It shall also include persons employed as peace officers pursuant to Section 830.5 of the Penal Code, regardless of the administrative title of the position. It shall not include persons employed as teachers, instructors, psychologists, or to provide food, maintenance, health or other supporting services even though responsibility for custody and control of youths may be incident to or imposed in connection with that service. (G.C. section 20438)

COUNTY JAIL—CUSTODIAL EMPLOYEES

If provided by agency contract, “county peace officer” shall also include employees of the sheriff employed in a county jail, detention or correctional facility and having as their primary duty and responsibility the supervision and custody of persons committed to the jail or facility, whether or not these employees are deputized. It shall not include persons employed as clerks, typists, teachers, instructors, psychologists or to provide food, maintenance, health or supporting services, even though responsibility for custody and control of persons so committed may be incident to, or imposed in connection with, that service or the employees are deputized. (G.C. section 20439)

BAILIFFS

If provided for by your agency’s contract, “county peace officer” shall also include employees of the sheriff employed to attend sessions of the superior or former municipal courts and preserve order in the courtrooms, to guard and maintain the security of prisoners during court appearances, or to summon jurors and take responsibility for them while they are deliberating or absent from the courtroom. It shall not include persons employed as clerks, typists, teachers, instructors or psychologists. (G.C. section 20440)

COUNTY PARK RANGERS

If provided for by your agency’s contract, “county peace officer” shall also include persons employed by a county parks and recreation department whose primary responsibility is maintaining the peace and whose duties include law enforcement, emergency medical care first response, or fire suppression and prevention in the Park Ranger class series. (G.C. section 20441)

OTHER LOCAL SAFETY

LIFEGUARDS

NOTE: This provision is mandatory for all contracting agencies with CalPERS contract dates of September 18, 1959 or later. It is an optional contract provision for contracting agencies with CalPERS contract dates prior to September 18, 1959.

If provided for by your agency’s contract, “local safety member” also includes all employees of a city who have by contract been included within this system, and whose principal duties consist of active

protection, rescue, and rendition of aid or assistance to persons injured or imperiled in water areas at ocean beaches and the recovery from those water areas of submerged objects and bodies of persons drowned or believed to have drowned in those areas, or the immediate supervision thereof, including persons employed to perform the duties now performed under the titles of aquatics director, chief lifeguard, captain lifeguards, lieutenant lifeguards, beach lifeguard, but who performs additional duties, some of which (including the maintenance of peace and order and the apprehension of law violators) are customarily performed by police or peace officers, and whose other duties (such as resuscitation work involving the use of special equipment in cases having no connection with their principal duties) that in other areas are customarily performed by firefighters, and other and further duties that do not come directly within any of the above classifications but are essential to the safety and security of the public, excluding those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active lifeguarding or lifesaving service, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active lifeguarding or lifesaving service. (G.C. section 20421)

EMERGENCY MEDICAL TECHNICIAN/PARAMEDIC

If provided for by your agency’s contract, “local safety member” also includes all employees of a public agency whose principal duties consist of rendering pre-hospital emergency medical care to ill or injured persons and who are employees designated as Emergency Medical Technician—I, Emergency Medical Technician—II, or Emergency Medical Technician—Paramedic, as defined by, respectively, Sections 1797.80, 1797.82, and 1797.84 of the Health and Safety Code. (G.C. section 20422)

HARBOR OR PORT POLICE OFFICER

If provided for by your agency’s contract, “local safety member” also includes any harbor or port police officer, employed by a contracting agency, who is a peace officer as defined in subdivision (b) of Section, 830.33 of the Penal Code and whose principal duties consist of active law enforcement of the laws contained in Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the California Department of Boating and Waterways, and Chapter 2 (commencing with Section 9850) of

Division 3.5 of the Vehicle Code. (G.C. section 20423)

PARK RANGERS

If provided for by your agency's contract, "local safety member" also includes any park ranger employed by a contracting agency who is a peace officer as defined in subdivision (b) of Section 830.31 of the Penal Code and whose primary responsibility is maintaining the peace and whose duties include law enforcement, emergency medical care first response, or fire suppression and prevention. (G.C. section 20423.5)

LOCAL PROSECUTORS, PUBLIC DEFENDERS, AND PUBLIC DEFENDER INVESTIGATORS

For all of these categories, the member's effective date of retirement must be on or after the date this section becomes applicable to the member's contracting agency.

LOCAL PROSECUTORS

G.C. section 20423.6 covers all of the following groups of employees:

1. A county officer or employee who, on or after January 1, 2002:
 - Was employed in the office of the district attorney.
 - Had a job title/classification of district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title.
2. A county officer or employee who:
 - Was employed in the office of a district attorney prior to the date the local child support agency transitioned from the district attorney to a new county department, as specified in Section 17304 of the Family Code.
 - Had a job title/classification of district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title.
 - On or after January 1, 2002, was an attorney in a local child support agency, as defined in subdivision (h) of Section 17000

of the Family Code, with no break in service between employment by a district attorney and the local child support agency.

3. A city officer or employee who, on or after January 1, 2002:
 - Was employed in the office of the city attorney.
 - Was primarily engaged in the active enforcement of criminal laws within any court operating in a county.
 - Had a job title/classification of city attorney, deputy city attorney, chief deputy city attorney, assistant city attorney, chief assistant city attorney, or any other similar classification or title.

LOCAL PUBLIC DEFENDER

A city or county officer or employee who, on or after January 1, 2002:

- Was employed in the office of the public defender, the alternate public defender, or any similar office title.
- Had a job title/classification of public defender, deputy public defender, chief deputy public defender, senior deputy public defender, assistant public defender, chief assistant public defender, senior assistant public defender, or any other similar classification or title.

LOCAL PUBLIC DEFENDER INVESTIGATOR

A city or county officer or employee who, on or after January 1, 2002:

- Was employed in the office of the public defender, the alternate public defender, or any other similar office title.
- Had a job title/classification of inspector, investigator, detective, or any other similar classification or title.
- Had principal duties of investigating crime and criminal cases.

SCHOOLS

LOCAL POLICE OFFICER

"Local police officer" also includes any officer or employee of a school district or a community college district that has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though

the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. This section shall only apply to any school district or community college district that prior to June 30, 1982, had amended its contract to provide membership for local police officers. (G.C. section 20430)

SCHOOL SAFETY MEMBERS

If provided for by your agency's contract, "school safety member" includes any officer or employee of a school district or a community college district which has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. This section shall only apply to a school district or a community college district that, pursuant to subdivision (i) of G.C. section 20057, entered into a contract with the board on or after January 1, 1990. (G.C. section 20444)

LOCAL FIREFIGHTER

If provided for by your agency's contract, "local firefighter" also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation service, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation service, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned. (G.C. section 20434)

HAZARDOUS MATERIALS SERVICES

If provided for by your agency's contract, "local firefighter" also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of hazardous materials services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of hazardous materials services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned. (G.C. section 20434.5)

FIRE TRAINING FUNCTION FOR A CONTRACTING AGENCY

If provided for by your agency's contract, "local firefighter" means any officer or employee of a contracting agency performing a fire training function for a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, fire prevention, fire training, or fire investigation service even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, or fire investigation service, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned. (G.C. section 20435)

H.R. 743 — SOCIAL SECURITY PROTECTION ACT OF 2004

On March 2, 2004, President Bush signed H.R. 743, the Social Security Protection Act of 2004, into law. Section 419(c) of H.R. 743 provides that any individual entering employment on or after January 1, 2005 in a position not subject to Social Security, be provided a written notice explaining the maximum effect not being subject to Social Security may have on the calculation of the primary insurance amounts and on the benefit amounts of monthly periodic payments or benefits.

The notice has been developed by the Social Security Administration “in language calculated to be understood by the average individual”. The written notice provided is to include a form for the individuals to complete and sign certifying receipt of the notice. Once completed and signed, the notification is to be submitted to the agency and to the retirement system the employing entity provides for its employees. H.R. 743 is silent as to any reason for the certifications being submitted to the retirement systems, how long the certifications must be retained, or any retrieval capability requirements. The Social Security Administration (SSA) provides the notification, certification form and instructions to public employers through their Web site at www.socialsecurity.gov. Questions should be directed to your local social security office or to the SSA using the web address provided above. CalPERS will provide any additional information on this topic as it becomes available.

To make sure you receive this information and updates or notices on other topics important to California public employers, sign up to receive **CalPERS On-Line** eSubscriptions. Our **CalPERS Employer eBulletin**, ePress Alerts, eAgenda Alerts, and bi-monthly eNews get you connected to CalPERS right through your own e-mail service.

To subscribe to these services, visit our web site at www.calpers.ca.gov or call our CalPERS Customer Contact Center today at **888 CalPERS** (or **888 225-7377**).

THIS PAGE INTENTIONALLY LEFT BLANK

ELECTRONIC ENROLLMENT — AUTOMATED COMMUNICATIONS EXCHANGE SYSTEM (ACES)

The Automated Communications Exchange System, or ACES, is an online system that provides employers the ability to exchange membership, health, and payroll information with CalPERS on a transactional basis. ACES is free to all CalPERS business partners and can be accessed from an ordinary personal computer through a highly secure Internet web browser. ACES consists of the following components:

INTERNET FILE TRANSFER

Employers can transmit membership (AESD-1) and/or health (HBD-12) files securely from their internal human resources systems to CalPERS for processing. This functionality allows employers to use their existing systems to exchange information with CalPERS.

INTERNET FORMS DATA ENTRY

Employers can enter membership (AESD-1) and/or health (HBD-12) data directly into online forms and securely submit them to CalPERS via the Internet. This functionality allows employers to submit individual transactions as needed rather than having to transmit an entire file.

PARTICIPANT INQUIRY

Employers and health benefit carriers can securely perform data queries via the Internet. This query functionality allows employers and carriers to verify enrollments and track changes.

ACCOUNT MANAGEMENT

Employers and health benefit carriers can establish and manage ACES user accounts. This functionality provides self-service capability that significantly streamlines the process of creating and maintaining user IDs and passwords.

ACES benefits California's state and public employers (and hence their employees) for many reasons, such as:

REDUCED MANUAL PROCESSING

ACES allows employers to submit membership and health enrollments and changes directly to CalPERS via the Internet, so there is less paper to handle and manually enter.

The end result is improved customer service, as CalPERS and employers are able to focus on

addressing members' needs rather than on the time consuming tasks associated with manual processing.

IMPROVED PROCESSING TIME AND DATA QUALITY

ACES provides front-end edits (validations that prohibit employers from entering incorrect or incomplete information) to ensure that the required data and specific membership and health values are supplied to process transactions. This is a significant improvement over the manual process, where errors on paper forms had to be corrected and resubmitted, creating delays affecting both employers and CalPERS.

SELF-SERVICE CAPABILITIES

ACES streamlines the process for obtaining and maintaining user accounts. The account management subsystem has significantly streamlined the former 17-step process for creating user IDs and passwords. Each employer can now create and maintain user IDs for their staff with little or no involvement from CalPERS. The process now consists of three steps, reducing the time to request, create, and distribute account information from several weeks to two days.

EASILY TRACK AND MONITOR ACTIVITIES

All activities are logged to include the date, time, submitter, agency, and content of transmitted data. This becomes an online electronic record of data sent and received, eliminating manual record keeping both by employers and CalPERS while providing a mechanism to resolve errors and problems more quickly.

NOTE:

To sign up for ACES or find out more information, please contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

CALPERS MEMBER ACTION REQUEST FORM (PERS-AESD-1)

DOWNLOADING INSTRUCTIONS

If you currently do not have access to process membership transactions via ACES, use the **Member Action Request Form** (PERS-AESD-1) Microsoft Word file template which can be downloaded for use on your computer.

In order to use the form on your computer, you must have Microsoft Word 97 or higher. To download and use the template, follow the instructions below:

1. Go to the CalPERS Web site at:
www.calpers.ca.gov.
2. Select "For Employers" button
3. Select "Employer Forms & Publications Directory" hyperlink
4. Select "Forms" hyperlink
5. Select "CalPERS Retirement Program Forms" hyperlink
6. Select "Member Action Request, PERS-AESD-1" hyperlink

USING THE ONLINE AESD-1 FORM

1. When you open the online AESD-1 form, you may receive a dialogue message box prompting you to "Save" or "Open" the file. Choose the "Save" option. You will then be asked to determine the location on your hard drive where you want the file to be saved.
2. Close the AESD-1 online file. You must use the file saved to your hard drive to input information. If you add information to the online file and print a copy, you will not be able to save the data.
3. Use the "Tab" key to advance from field to field. You can also hold down the "Shift" key and use "Tab" to go through the fields in reverse order.
4. If an information field has specific data requirements, this information is displayed in the "Status Bar" at the lower left hand

corner of your screen. For example, Box 2 (Current Name) has a maximum character limit.

5. In Box 7 (Address) the state field defaults to "CA". However, you can change the state designation.
6. Based on the type of member transaction (appointment, address changes, permanent separations, etc.) there may be common or repeated data on every form you submit to CalPERS. These could include your employer code, coverage groups, etc. You may want to save different versions of the form with the appropriate repeated data as templates for specific transactions.
7. When the form is completed, print it out and send or fax to CalPERS at the following address:

CalPERS

Customer Service and Outreach Division
P.O. Box 942709
Sacramento, CA 94229-2709
or FAX (916) 795-3005

If you have any questions or need assistance completing the form, contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

An example of the PERS-AESD-1 is on the following page.

PERS-AESD-1 Form



P.O. Box 942709
 Sacramento, CA 94229-2709
 Telephone (888) 225-7377
 FAX (916) 795-3287
 TDD (916) 795-3240

(Please PRINT or TYPE clearly)

INCOMPLETE OR IMPROPERLY COMPLETED FORMS MAY BE RETURNED TO YOU

Member Action Request

1 SOCIAL SECURITY NUMBER - -			2 Current Name (First, Middle, Last)			3 Daytime Phone Number (
4 Date of Birth MM DD YYYY			5 Gender <input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Unknown			6 Former Name - For name changes only (First, Middle, Last)														
7 Mailing Address: In Care of (if applicable): Street/P.O. Box: Additional Address Line: City: State: CA ZIP Code: -						8 Remarks (pertaining to CalPERS)														
									9 Employer Name											
						10 Effective Date of Action MM DD YYYY						11 Subject to Section 20306 <input type="checkbox"/> Yes <input type="checkbox"/> No			12 Employer Code			13 District Code (schools only)		

15 Type of Action (check all boxes that apply for this Effective Date; if none apply, indicate action needed in "Remarks" [#8] above):

- | | | |
|---|---|--|
| A. <input type="checkbox"/> Appointment/Membership | E. <input type="checkbox"/> Military Leave | I. <input type="checkbox"/> Alternate Retirement Plan (G.C. 20306) |
| B. <input type="checkbox"/> Return from Leave | F. <input type="checkbox"/> Worker's Comp Leave | J. <input type="checkbox"/> Name Change |
| C. <input type="checkbox"/> Separation, Permanent | G. <input type="checkbox"/> Sabbatical Leave | K. <input type="checkbox"/> Address Change |
| D. <input type="checkbox"/> Separation, Temp (≥ 2 months) | H. <input type="checkbox"/> Maternity/Paternity Leave | L. <input type="checkbox"/> Coverage Group Change |

16 Coverage Group	17 Job/Position Title	18 ½ @ 55 Formula Cont. Rate: %
--------------------------	------------------------------	---

- 19** ☐ - This person is an Optional Member (e.g., "Elective Officer," "Legislative Employee") who is electing membership.
 (Please attach appropriate election form AESD-3, AESD-59, or AESD-229)

20 BASIS FOR MEMBERSHIP QUALIFICATION: (Optional informational field. Check appropriate box.)	
<input type="checkbox"/>	Full-Time for > 6 months
<input type="checkbox"/>	Part-Time for ≥ 20 hours for 1 year or more
<input type="checkbox"/>	Indeterminate; at least 20 hours a week for 1 year or more
<input type="checkbox"/>	Has completed 1,000 hours or 125 days in fiscal year
<input type="checkbox"/>	Person is already a PERS member

21 Form Completed By:

(Name & Title)

(Telephone Number)

(Fax Number)

(Date)

(Signature of Certifying Officer)

(Date)

ELECTION OF OPTIONAL MEMBERSHIP (PERS-AESD-59)

A completed and signed ***Election of Optional Membership Form*** (PERS-AESD-59), is required to validate and establish membership for an individual who qualifies as an “optional” member as an elective/appointive officer under G.C. section 20322. The form must be submitted with the ***Member Action Request Form*** (PERS-AESD-1), or after performing an electronic enrollment using ACES to satisfy the legal requirements.

Refer to the “Optional Members of CalPERS” section of this manual to determine “optional” membership eligibility.

WHEN TO COMPLETE

Once it has been determined that the individual does qualify for and requests “optional” membership, the PERS-AESD-1 and PERS-AESB-59 forms should be completed and submitted to CalPERS for review and approval of membership.

1. The optional member must be advised of CalPERS rights to membership when first eligible for membership (i.e., upon first taking office) but the election can be made at any time during the qualifying employment - even on the incumbent’s last day in office. You should document in your personnel records the fact that the information was provided to the individual, as well as any direct response received from the individual (e.g., “Ms. Smith declined membership at this time”). Do not send a notice to CalPERS if membership is declined.
2. The PERS-AESD-1 should be used only when the person has decided to establish membership for the “optional” position. It should not be completed as a means of requesting additional information about retirement benefits and obligations of membership, or to obtain cost information about purchasing credit for previous service. Complete the “Request for Service Credit Cost Information - Layoff, Prior Service & Optional Member Service” form to request such cost information.

3. The signed PERS-AESD-1 must be filed with CalPERS whether membership is established through submittal of that paper form or through ACES electronic filing.
4. You also need to complete the PERS-AESD-59 and enroll through a PERS-AESD-1 or ACES when a current active or inactive member assumes an “optional” member position and wishes to elect membership for that office. The individual’s current CalPERS membership status does not serve to continue the person in membership *automatically*.

OTHER GENERAL PROVISIONS AND INSTRUCTIONS

1. For CalPERS retirement purposes, optional members qualifying under G.C. section 20322 are considered to be full-time employees for all CalPERS purposes. (G.C. section 20899). Exclusions (i.e. temporary, part-time, daily-paid, etc.), in the Government Code and an employer’s contract do not apply.

NOTE:

This full-time status may result in an overtime situation, if the member has any other concurrent CalPERS positions.

2. Optional members excluded by an agency’s CalPERS contract remain excluded regardless of any PERS-AESD-59 election filed. Typical exclusions that can apply are “elective officers”, “Members of the Governing Body”, and those citing specific position titles.
3. The optional member must receive “compensation” in order for membership to be reported and service credit earned. Reimbursement of expenses alone is not considered compensation under the Government Code.
4. Elimination of, or waiver of compensation, once membership has been established does not constitute a “permanent separation” from membership for purposes of canceling membership and electing a

refund of contributions, as long as the person remains active in the same position with the employer.

5. Membership should not be established for an optional member unless the PERS-AESD-59 is signed and filed with the CalPERS Board of Administration in accordance with the "When to Complete" instructions.
6. Complete the PERS-AESD-1 or the ACES electronic membership input:
 - Indicate permanent full-time employment status (e.g., indicate "Full-time for > 6 months").
 - Use a current/future membership effective date (you may wish to coordinate with the beginning date of next pay period so that it matches the effective date of contribution reporting to CalPERS).
 - Use a coverage group appropriate to the miscellaneous or safety status of the optional position. (Only a few optional members have safety status, however; e.g., the County Sheriff.) Agencies providing modified coverage group codes should determine if the optional position is excluded for Social Security purposes. The actual time required for the position, regardless of the full-time status indicated on the PERS-AESD-1 and PERS-AESD-59,

is used to determine if Social Security time base exclusions apply.

- The fact a particular officer may work more or less than what is required for the position should not be considered in this determination.
7. Submit the original signed form PERS-AESD-59 to CalPERS; retain copies for the member and employer personnel records.
 8. Refer to the Payroll Reporting procedures "Pay rate/Earnings Relationship" for normal contribution reporting instructions.
 9. An optional member may elect to contribute and receive service for previous qualifying employment. When purchasing previous service credit, an officer must purchase all previous "optional" member service, not just part of it.
 10. An officer who is no longer in office, but is currently an active or inactive CalPERS member, may also elect to contribute for previous qualifying "optional" employment.
 11. See the publication ***Service Credit Purchase Options*** (PUB-12) or refer to the ***Redeposit of Withdrawn Contributions and Other Types of Service*** publication. Do not attach the inquiry to the PERS-AESD-59 or the PERS-AESD-1; it should be submitted separately.

Election of Optional Membership Form (PERS-AESD-59) Microsoft Word file template can be downloaded to your computer.

In order to use the form on your computer, you must have Microsoft Word 97 or higher. To download and use the template, follow the instructions below:

1. Go to the CalPERS Web site at: **www.calpers.ca.gov**.
2. Select "For Employers" button.
3. Select "Employer Forms & Publications Directory" hyperlink.
4. Select "Forms" hyperlink.
5. Select "CalPERS Retirement Program Forms" hyperlink, * select "Election of Optional Membership – Elective Office, (PERS-AESD-59)" hyperlink.

If you have any questions or need assistance completing the form, contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

INSTRUCTIONS TO COMPLETE THE PERS-AESD-59 ELECTION OF OPTIONAL MEMBERSHIP

ITEM	INSTRUCTIONS
Officer Title	Enter the title of the office held by the applicant.
Agency Name	Enter the name of the agency.
Agency Contact & Phone Number	Enter the name of the contact person and phone number of the contact person.
My Present Term Will Expire	Enter the date (month-day-year) on which the term will expire.
Printed Name in Full	Enter the employee's full name.
Signature	Enter the employee's signature.
Date	Enter the date the employee signed this election form.
Social Security Number	Enter the employee's Social Security Number. Verify with the Social Security card.
Address	Enter the employee's address.
Daytime Phone Number	Enter the employee's daytime phone number.
City & State	Enter the employee's city and state.
ZIP Code	Enter the employee's ZIP code.

ELECTION OF OPTIONAL MEMBERSHIP (PERS-AESD-59) SAMPLE FORM

California G.C. section 20322 provides an "elective officer" is excluded from membership in the California Public Employees' Retirement System (CalPERS) unless he or she files with the Board of Administration an election in writing to become a member.

"Elective Officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both the house of the Legislature and an appointive officer of a city or county occupying a fixed term of office, as well as officers of state or contracting agencies elected by the people. Exceptions are: (1) Effective July 1, 1994, elected or appointed officers of a county superintendents of schools, school district, or community college district, or of a contracting agency that is not a city or county, who serve on public commissions, boards, councils, or similar legislative or administrative bodies, other than city councils or county boards of supervisors, are excluded from membership with no right to elect optional membership unless continuously holding the office since June 30, 1994; (2) Effective July 1, 1994, any person holding the office of city attorney was continuously holding the office since June 30, 1994; (3) Effective January 1, 1997, city and county elected or appointed officers who serve on public commissions, boards, councils, or similar legislative administrative bodies, other than city councils or county boards of supervisors, are excluded from membership with no right to elect "optional" membership unless they have continuously held the office since December 31, 1996.

The election of "optional" membership may be filed at any time while a compensated elective officer holds the office and the office is not otherwise excluded by law or excluded by an agency's contract. Once elected, the membership remains in effect for all future service in an elective officer position with the same employer unless there is a significant break in employment. Once membership is established, it may be terminated only upon permanent separation from employment covered by CalPERS and subsequent withdrawal of retirement contributions. While a CalPERS member, you may contribute and receive credit for any previous eligible service in the elective officer position. The Member Services Division, P.O. Box 942704, Sacramento, CA 94229-2704, will handle any such requests to purchase previous service. The form to request "optional" member arrears service is on the CalPERS Web site at www.calpers.ca.gov, or you may request the **CalPERS Service Credit Purchase Options** publication from your employer, in which a copy of the **Optional Member Service** form (PERS-MSD-372) is included.

If your election for "optional" membership in CalPERS will result in concurrent service with employment credited in a private benefit plan or another public retirement system, please contact the organization for information regarding the impact of such concurrent service. If your election will result in concurrent service under CalPERS, please contact the Member Transactions Unit, Actuarial & Customer Service and Outreach Division, at **888 CalPERS** (or **888-225-7377**).

PLEASE COMPLETE AND RETURN THIS ENTIRE FORM TO YOUR PERSONNEL OFFICE SO THEY CAN ESTABLISH YOUR MEMBERSHIP.

I AM AN ELECTIVE OFFICER AS DEFINED BY THE ABOVE, being a/the (enter Officer Title) _____ of the (Agency name) _____ (Agency contact) _____ (Agency phone) () _____

My present term will expire on _____, 20_____. In accordance with the provisions of G.C. section 20322, I ELECT TO BECOME A MEMBER OF CALPERS. I request that this election be filed with the Board of Administration of the California Public Employees' (CalPERS) as my election to become a member. I UNDERSTAND THIS ELECTION IS IRREVOCABLE AS LONG AS I REMAIN IN EMPLOYMENT AS A MEMBER.

_____ (Printed Name in FULL)	_____ (Signature)	_____ (Date)
_____ (SS Number)	_____ (Address)	
_____ (Daytime Telephone Number)	_____ (City & State)	_____ (ZIP Code)

PERS-AESD-59 (Rev. 03/2004)

OVERTIME POSITIONS

Overtime compensation may not be reported in membership to CalPERS, either as compensation, or as employment which will result in service credit being given. G.C. section 20635 defines overtime as follows:

“(T)he aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.”

CalPERS considers full-time employment to be between 34 and 60 hours per week. Employers generally have the ability to determine what constitutes full-time for an employee provided that the employee works between 34 and 60 hours per week (the exception is non-certificated school employers which is discussed below). Once the full-time weekly hours are determined the additional hours worked during the week by the employee will constitute overtime under G.C. section 20635.

G.C. section 20635.1 defines overtime as follows for school members:

“For the purposes of this part, overtime for school members is the aggregate service performed by an employee as a member for all school employers and in all categories of employment in excess of 40 hours of work per week, and for which monetary compensation is paid.”

G.C. section 20636.1 states that for all non-certificated school members full-time employment is considered 40 hours per week. This means that all hours up to 40 per week must be reported to CalPERS for non-certificated school members at the straight time rate and only those hours above 40 are considered overtime.

If overtime compensation has been erroneously reported, CalPERS will instruct an employer to retroactively reverse out payroll entries. If overtime compensation was included in a retiree's final compensation period, it will be adjusted as well.

In order to prevent overtime situations from occurring, it is recommended that you check with your employees to see if they are working with any other CalPERS-covered employer. If unsure, contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Some situations that may arise in this connection are as follows:

1. The member currently holds one full-time position subject to CalPERS, and accepts a second concurrent part-time position either with the same employer, or with a different employer.

RESULT:

The part-time position is deemed to be “overtime”, and may not be reported to CalPERS.

2. The member works more than one full-time position, either with the same employer (including different school districts in the same county), or with more than one CalPERS covered employer.

RESULT:

For service worked after July 1, 1994, only the position with the highest pay rate or base pay should be reported to CalPERS. (For service prior to July 1, 1994, contact CalPERS for instructions.)

3. The member holds more than one part-time position with the same CalPERS covered employer.

RESULT:

All part-time positions are reportable to CalPERS, as the law does not specifically provide for the exclusion of such positions.

BIRTH DATE DISCREPANCY

The PERS-MEM-12 is used by CalPERS to request certification of the member's correct birth date. CalPERS may also contact you by phone, instead of sending the PERS-MEM-12, as well as incorporate such a request in a letter.

WHEN TO COMPLETE

ACTIVE MEMBER

- If there is a birth date discrepancy and the birth date has not been certified by CalPERS, you can process the change in ACES.
- However, if this is not the first birth date change OR the birth date has been certified by CalPERS, you need to contact CalPERS to have it changed.

INACTIVE MEMBER

- If the member has separated and finds he or she has provided a birth date that is incorrect, CalPERS will request the member to provide one of the "Acceptable Documents" listed below.

ACCEPTABLE DOCUMENTS

The following is the list of acceptable documents, listed in descending order of preference (i.e., with the most desirable documents listed first), to be used in resolving a birth date discrepancy. The document submitted must not be altered. It will be returned after the correct birth date has been established on our records.

1. BIRTH CERTIFICATE or HOSPITAL BIRTH RECORD established during the first few years of life. If you tell us the name of the state in which the member was born, we can furnish the address of that State's Bureau of Vital Statistics.
2. CALIFORNIA DRIVER LICENSE
3. NATURALIZATION/PASSPORT (U.S. or Canada)
4. FOREIGN PASSPORT that includes a valid INS-94 form (Record of arrival and departure).

5. BORDER CROSSING CARD with a valid INS-94 form (includes "Mica" and "Laser Visa" border crossing cards).
6. CHURCH BAPTISMAL, CRADLE or BLESSING RECORD, which shows a date of birth and was established during the first few years of life.
7. PRIMARY or SECONDARY SCHOOL RECORDS showing age at certain year or birth date. Write to the Superintendent of Schools to request records.
8. NATURALIZATION, PASSPORT or IMMIGRATION DOCUMENTS.
9. RECORDS OF AGE OR BIRTH DATE which are dated prior to 21st birthday, such as church, fraternal order, insurance, hospital, medical, adoption, guardianship, or newspaper notice of age.
10. DELAYED BIRTH CERTIFICATE. Provide the state in which the member was born, CalPERS can furnish the address of that state's Bureau of Vital Statistics.
11. CENSUS RECORDS from federal or state government—preferably first two taken after date of birth. Federal records can be requested on form BC-600. This form will be furnished upon request.
12. FAMILY BIBLE in which birth date was recorded within reasonable period of time after birth.
13. SOCIAL SECURITY CERTIFICATION documents which show the date of birth that has been established by the Social Security Administration (contact the Social Security Office where you applied for Social Security benefits).

In the event that none of the above listed documents are available, submit a written request to the Customer Service and Outreach Division. If you have additional questions, feel free to contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

NOTICE OF CHANGE PERS-MEM-155 (CALPERS-INITIATED FORM)

The PERS-MEM-155 is prepared by CalPERS to notify agencies of changes they need to make. Correct your agency records as instructed on the form, for reasons such as:

- To cease reporting in membership an employee who is not qualified for membership;
- To cease reporting an overtime position;
- To certify an employee contribution rate change (e.g., due to establishment of reciprocity, or change from miscellaneous to safety);
- To notify your agency to correct the Coverage Group Code and any earnings and contributions reported in error; and
- To notify two-tier agencies (i.e., agencies providing two tiers/levels of retirement benefits) that a member has elected to redeposit, and is now eligible to return to the higher level of benefits (such eligibility is based on the member having earlier employment with your agency).

P.O. Box 942704

Sacramento, CA 94229-2704

Telecommunications Device for the Deaf – (877) 249-7442

888 CalPERS (or **888-225-7377**) FAX (916) 795-1224

Reply to Section:

Date:

PERS-MEM-155 (Rev. 03/00)

EMPLOYER		EMPLOYEE	
EMPLOYEE RECORD SHOULD READ:		DELETE FROM EMPLOYEE RECORD:	
MEMBER RATE OF CONTRIBUTION	EFFECTIVE DATE	MEMBER RATE OF CONTRIBUTION	EFFECTIVE DATE
SOCIAL SECURITY	COVERAGE GROUP	SOCIAL SECURITY	COVERAGE GROUP
1959 SURVIVOR BENEFIT	ACCOUNT CODE	1959 SURVIVOR BENEFIT	ACCOUNT CODE
EMPLOYER ACTION:			
COMMENTS:			

FULL RECIPROCITY

Reciprocity is an agreement among public retirement systems to allow members to move from one public employer to another within a specific time limit without losing valuable retirement and related benefit rights.

There is no transfer of funds or service credit between retirement systems when an employee establishes reciprocity. The employee is a member of both systems and is subject to the membership and benefit obligations and rights of each system, except as they are modified by the reciprocity agreement.

The member must apply to retire from each system separately and will receive a separate retirement allowance from each system. The member must retire on the same date from each public retirement system participating in a reciprocal agreement for all benefits of reciprocity to apply.

CalPERS authority extends only to applying and implementing the California Public Employees Retirement Law; it does not extend to applying and implementing the laws or regulations under which other public retirement systems are administered. Questions relating to rights, benefits, and obligations under any of the other public retirement systems should be addressed directly to the appropriate system.

For more information on reciprocity, download or order a copy of ***When You Change Retirement Systems*** (PUB-16) at www.calpers.ca.gov or by calling **888 CalPERS** (or 888-225-7377).

RECIPROCAL 1937 ACT COUNTY RETIREMENT SYSTEMS

Alameda	Sacramento
Contra Costa	San Bernardino
Fresno	San Diego
Imperial	San Joaquin
Kern	San Mateo
Los Angeles	Santa Barbara
Marin	Sonoma
Mendocino	Stanislaus
Merced	Tulare
Orange	Ventura

RECIPROCAL PUBLIC AGENCY RETIREMENT SYSTEMS

California Administrative Services Authority
 City of Concord
 City of Costa Mesa
 (Safety employees only)
 City of Fresno
 (Miscellaneous and Safety Retirement Systems)
 City of Los Angeles
 City of Oakland
 (non-Safety employees only)
 City of Pasadena
 (Fire and Police Retirement Systems)
 City of Sacramento
 City of San Clemente
 (non-Safety employees only)
 City of San Diego
 City and County of San Francisco
 City of San Jose
 Contra Costa Water District
 County of San Luis Obispo
 East Bay Municipal Utility District
 East Bay Regional Park District
 (Safety employees only)
 Long Beach Schools Business Management Authority
 Los Angeles County Metropolitan Transportation Authority
 (Non-Contract Employees' Retirement Income Plan, formerly Southern California Rapid Transit District)

NOTE:
 With the exception of the University of California Retirement System/Plan, all of the above also have reciprocity with each other as a result of their having established reciprocity with CalPERS.

RECIPROCITY REQUIREMENTS

CONDITIONS FOR ACQUIRING THE BENEFITS OF FULL RECIPROCITY

Where CalPERS rights and benefits are involved, CalPERS will recognize reciprocity upon movement between reciprocal retirement systems if the following requirements are met:

1. The employee voluntarily elects reciprocity and continues in membership in CalPERS by leaving his or her contributions (if any) on deposit (or by later redepositing contributions he or she had withdrawn); and
2. The employee enters into employment that leads to membership in the new system within six months of leaving CalPERS employment (see note); and
3. The employee must retire on the same date under both systems by submitting a retirement application to each system respectively.
4. Certain exceptions may exist if the employee is employed under an independent public agency retirement system before the effective date of that system's reciprocal agreement with CalPERS.

NOTE:

Eligibility for reciprocity is determined by the retirement laws in effect at the time of movement between employers and retirement systems. Current CalPERS law requires movement within six months.

A member should complete the ***Election to Coordinate Retirement when Changing Retirement Systems*** form in the ***When You Change Retirement Systems*** publication (PUB-16).

IMPORTANT RESTRICTIONS

CONCURRENT EMPLOYMENT

Reciprocity does not apply when the employment under the first retirement system overlaps the employment under the new system. For the benefits of reciprocity to apply, the employee must be separated under the first system prior to joining the new system. This may be true even if the overlapping time is due to running out leave credits. The employee should check with their current system and new system about their rules before they change employment. If they are concurrently employed we will use their highest rate of pay under CalPERS when computing their retirement allowance.

REFUND RESTRICTION

Some retirement systems may not allow the member to withdraw their member contributions while they are employed in a position covered by a reciprocal retirement system or California State Teachers Retirement System (CalSTRS), Judges' Retirement System (JRS), Judges' Retirement System II (JRS II), Legislators' Retirement System (LRS) or the University of California Retirement Plan (UCRP).

For more information, contact the following retirement systems:

California State Teachers' Retirement System
P.O. Box 15275
Sacramento CA 95851-0275
(800) 228-5453

Judges' and Legislators' Retirement System
P.O. Box 942705
Sacramento CA 94229-2705
(916) 795-3688

University of California Retirement Plan
P.O. Box 24570
Oakland CA 94623-1570
(800) 888-8267

RIGHTS AND BENEFITS WITH FULL RECIPROCITY

Eligibility for reciprocity is determined by the retirement laws in effect at the time of movement between employers and retirement systems. The information contained here expresses current CalPERS law.

FINAL COMPENSATION

Use highest compensation earnable under any system in computing final compensation if retirement from all systems is concurrent.

NOTE:

California County and Public Retirement Systems may have different criteria that will qualify a member to retire, which may be different than CalPERS requirements. If a member retires on a service retirement from another retirement system prior to their age eligibility under CalPERS, upon qualifying to retire under CalPERS, we will still use the member's highest rate of pay under any of the systems.

If the member became an elective or appointed officer after July 1, 1994, we will use the highest rate of pay under CalPERS.

QUALIFICATION FOR BENEFITS

Service in the other system may be used to meet minimum service requirements for benefits.

DISABILITY RETIREMENT

If the member is eligible for disability retirement from another system (or disability income from the University of California Retirement Plan) they may be entitled to CalPERS disability retirement benefits, if they retire from both systems on the same date. CalPERS would pay an amount that does not exceed the difference between the amount that would be paid by the other system if all of the member's CalPERS service were under that system, and the amount actually paid under the other system, but not less than an annuity that is the actuarial equivalent of the member's contributions.

When retirement under the other system is for disability arising out of and in the course of employment under the other system, CalPERS pays an annuity that is the actuarial equivalent of the member's contributions.

PRE-RETIREMENT DEATH BENEFITS

If the member dies prior to retiring while employed as a member of another system, a lump-sum Basic Death Benefit consisting of a return of their CalPERS retirement contributions will be payable to a beneficiary. The total paid by both systems cannot exceed the maximum lump-sum benefit allowable if all service had been under the other system.

If the member is a Safety member of CalPERS and the death is job-related, the monthly Special Death Benefit allowance may be payable to a qualifying survivor.

MEMBERSHIP RATE AGE

Miscellaneous members and most Safety members in CalPERS have retirement formulas with a fixed rate of contribution and are not affected by their age at entry into the other system. However, other systems may use age at entry for their contribution rate. The member should check with the appropriate system for information.

CALPERS BENEFITS FOR NON-QUALIFYING INDIVIDUALS

Even if the member does not qualify for full reciprocity, CalPERS offers redeposit rights, vesting, and University of California Retirement Plan final compensation.

In addition, if their employer established a reciprocal agreement with CalPERS after they changed membership, and they would have been eligible for reciprocity had an agreement been in effect at the time of their membership change, their retirement allowance will still be based on the highest final compensation under either system, as long as they retire on the same date under both systems.

REDEPOSIT RIGHTS

If the employee withdrew their CalPERS contributions and interest and later joined a reciprocal retirement system, they can re-establish CalPERS service credit and membership by making a redeposit.

REFUND RESTRICTION

The member may not withdraw their CalPERS contributions once they have entered employment covered by the University of California Retirement Plan (UCRP) or if, within six months of leaving State service, they entered employment covered by a system under the County Employees' Retirement Law of 1937 or covered by certain other public agency retirement systems.

VESTING

If the employee is a CalPERS member who is also a member of a reciprocal retirement system, they are eligible to retire from CalPERS without meeting the CalPERS minimum service credit requirement (but they must still meet the minimum age requirement).

UNIVERSITY OF CALIFORNIA RETIREMENT PLAN FINAL COMPENSATION

The average pay rate during any 12-month or 36-month period of employment with the University of California will be used for computing final compensation, if the member retires from both systems on the same date.

CALPERS BENEFITS ARISING FROM MOVEMENT TO RECIPROCAL AND CERTAIN NON-RECIPROCAL PUBLIC RETIREMENT SYSTEMS

There is no formal reciprocity agreement established between CalPERS and the following systems:

- California State Teachers' Retirement System (CalSTRS)
- Legislators' Retirement System (LRS)
- Judges' Retirement System (JRS)
- Judges' Retirement System II (JRS II)

However, the following benefits and requirements apply to CalPERS members who enter employment with these systems and retire on the same date under both systems.

FINAL COMPENSATION

CalPERS will compute the member's final compensation based on the highest rate of pay under CalSTRS, LRS, JRS, JRS II, or CalPERS during any consecutive 12-month or 36-month period of service as long as they retire on the same date under both systems. (If a member became an elective or appointed officer on or after July 1, 1994, we will use their highest rate of pay under CalPERS.)

REDEPOSIT RIGHTS

A member of CalSTRS, LRS, JRS, or JRS II may redeposit in CalPERS previously withdrawn CalPERS contributions in order to re-establish service credit in this system.

To receive this credit, a member's election must be filed with CalPERS before their retirement is effective (G.C. section 21032). The employee should request cost information at least one year prior to their retirement date to ensure accurate and timely payment of benefits.

The right to redeposit contributions is not one of the uniform reciprocal provisions; it varies among the different public retirement systems. Contact the particular retirement system to learn of its policy regarding redepositing.

REFUND RESTRICTION

A member's CalPERS contributions may not be withdrawn while the member is in active employment as a member of CalSTRS, LRS, JRS, or JRS II.

VESTING

A CalPERS member who is a member of CalSTRS, LRS, JRS, or JRS II is eligible to retire from CalPERS without meeting the CalPERS minimum service credit requirement (but must still meet the minimum age requirement).

DISABILITY RETIREMENT

There is no provision for CalPERS disability retirement when a member is eligible for a disability benefit from CalSTRS, LRS, JRS, or JRS II. They must instead take a CalPERS service retirement on the same date they take disability retirement from the other system in order for the provisions of final compensation to apply. (If they retire on a disability retirement from the other system before they have met the CalPERS minimum service retirement age, they can later retire under CalPERS. We will use their highest CalPERS pay rate to determine their final compensation amount.)

If they will be receiving a disability allowance from CalSTRS, they can take a service retirement from CalPERS at the same time (if they meet the minimum retirement age) OR at age 60, when the disability allowance under CalSTRS is changed to a service retirement. Either way, they are considered to have retired on the same date under both systems, and CalPERS will compute their final compensation based on the highest rate of pay under either system.

HOW TO NOTIFY CALPERS WHEN THE MEMBER CHANGES RETIREMENT SYSTEMS

When the employee becomes a member of a reciprocal or non-reciprocal public retirement system, they can notify CalPERS by one of the following methods:

- Complete the ***Election to Coordinate Retirement When Changing Retirement Systems*** form in the ***When You Change Retirement Systems*** publication (PUB-16).
- Complete one of the forms in the CalPERS Refund Election Package (public agency or school employees) or the separation document (State employees) when separating from CalPERS-covered employment.

Please direct requests for information or inquiries to:

CalPERS

Customer Account Services Division, Section 841
P.O. Box 942704
Sacramento, CA 94229-2704

JRS, JRS II, AND LRS MEMBERS

Contact the Judges' or Legislators' Retirement Systems directly when an employee becomes a member of a reciprocal or non-reciprocal public retirement system:

Judges' & Legislators' Retirement Systems
P.O. Box 942705
Sacramento, CA 94229-2705
(916) 795-3688
(916) 795-1500 — Fax

LONG-TERM CARE PROGRAM MEMBERS

If the member is enrolled in the CalPERS Long-Term Care Program and has premiums deducted from their check, they should call the program's Customer Service Center at (800) 982-1775 to find out what steps they need to take to continue their premiums after retirement.

EMPLOYER CERTIFICATION OF SERVICE CREDIT PURCHASE OPTIONS

SERVICE CREDIT

Service credit represents the accumulated amount of your employees' service time at work or on paid status under their CalPERS-covered employer or employers, counted on a fiscal year basis.

Service credit is one of three prime factors used to calculate an employee's retirement benefit, along with their retirement formula and final compensation.

EMPLOYER ROLE IN SERVICE CREDIT PURCHASES

Three types of service credit require employer certification of the application requesting the service credit purchase.

- Service Prior to Membership
- Leave of Absence
- Layoff, Prior Service, Optional Member Service

CalPERS offers a variety of service credit purchase options to your employees that do not require employer certification. These include:

- Redeposit of Withdrawn Contributions
- Additional Retirement Service Credit
- Military Service
- Peace Corps, Americorps VISTA & Americorps

For a complete list, please refer to the CalPERS publication ***A Guide to Your CalPERS Service Credit Purchase Options*** available in the [CalPERS Forms and Publications Center](#) or by calling **888 CalPERS** (or 888-225-7377).

EMPLOYER COST

The service credit purchases where employers are actually billed are:

- Member-Paid Arrears (for the employer share)

- Employer-Paid Arrears (for the member and employer share)
- Settlement Agreement (Employers may pay a percentage, up to 100%, of the member's share of contributions and interest due in addition to the employer share.)

For other service credit purchases, the employer liability is funded by the actuarial evaluation and setting of the employer rate based on the service that has been posted to the employer.

SERVICE PRIOR TO MEMBERSHIP

Service Prior to Membership (SPM) is service rendered after the date of contract between a public agency, State, or School District and the System, but before the employee entered CalPERS membership. This may include time spent working for a federal or State employer under the Comprehensive Employment and Training Act (CETA). Election to contribute for SPM will result in additional service credit. Persons who were employed under the following conditions are eligible for service prior to membership:

1. Those who worked the six months membership qualification period prior to July 18, 1961.
2. Those who worked the part-month membership qualification period between July 18, 1961 and October 1, 1963.
3. Those employed less than 87 hours per month or less than an average of 20 hours per week prior to becoming a member.
4. Those formerly employed in temporary or seasonal employment in which they were excluded from membership under G.C. section 20305.
5. Those "optional" elective officers, Governor appointees and Legislative employees who are excluded because of their failure to exercise their right of election of membership under G.C. sections 20320, 20322, 20324, or 21021 and are no longer working in an "optional" position. If still in an "optional" position, refer to the "Optional Member Service" section.
6. Those who worked under CETA for a federal- or State-sponsored program such as the Public Employee Program, Public

Service Employment, Disabled Veterans' Outreach Program, Public Service Employment Program, or Cal Esteem.

To receive this credit, a member's request must be filed with CalPERS before their retirement is effective.

Active or inactive CalPERS members cannot purchase CalPERS service time if:

1. The agency where the service was earned does not currently have a contract with CalPERS.
2. Their service is excluded by law or by the employer's contract with CalPERS
3. They worked at a school in a certificated position. (They should contact CalSTRS to find out if they can purchase the service with that system.)
4. They worked at the University of California after October 1, 1963.
5. They are retired.

CERTIFICATION

When a member requests to purchase Service Prior to Membership, they are provided with a ***Request for Service Credit Cost Information Service Prior to Membership*** form (PERS-MSD-370). On this form, they indicate the prior employer information, including the period of employment and hours or time base worked per month. If this employment is with the State or with a California State University, this form is sent to CalPERS for processing. If this employment is with a Public Agency or County School, this form is then sent to that employer for certification. If the employer does not agree with the information provided by the member, the employer is asked to complete Section 5 with detailed employment information. CalPERS relies on the information provided to determine and apply all appropriate service credits. If certification results in a change in employment history relied upon by CalPERS, there is a potential employer liability.

MILITARY SERVICE

PUBLIC AGENCY MEMBERS

G.C. section 21024 effective December 1, 1975 and amended December 1, 1977 provides that public agency members may be eligible to receive military service credit, provided:

1. Public agency amends their contract accordingly.

2. Military service was rendered prior to CalPERS membership with contracting agency which has amended their contract.
3. Member makes contributions required. Payments may be made in one lump sum or by installment payments.
4. Members may receive credit not to exceed four years.

PUBLIC AGENCY RETIREES

G.C. section 21027 provides that public agency retirees may be eligible to receive credit for their military service, provided:

1. Public agency amends their contract for G.C. section 21024 and 21027.
2. Military service was rendered prior to CalPERS membership with contracting agency that has amended their contract accordingly.
3. The member retired immediately from the contracting agency and before the effective date of the agency's contract amendment for G.C. section 21024.
4. Retiree makes contributions required.
5. Retiree may receive credit not to exceed four years.

MILITARY SERVICE CREDIT AS PRIOR SERVICE

G.C. section 20996 provides employees, who are or were on military leave at the time your agency contracts for CalPERS coverage and returned to employment with your agency within six months after discharge from active military duty, can receive prior service credit for the period of their absence. If your agency provides this benefit, former employees employed by other CalPERS employers would also be eligible for this service credit. Your agency would be liable for the cost.

STATE AND COUNTY SCHOOL MEMBERS AND RETIREES

G.C. section 21029 provides that State employees and retirees may be eligible to receive credit for their military service. To be eligible the member or retiree must:

1. Currently be employed with or retired directly (within 120 days of separation) from the State employment.
2. Must have a minimum of one year of CalPERS service and one year of military service. Service is granted on a basis of one year of military service credit for each year of credited CalPERS service credit, not to exceed four years.
3. Make election to purchase the service credit.

4. In addition, State retirees must have retired on or after December 31, 1981.

The cost for the military service is based on current pay rate, the amount needed to fund the benefit, and how much military service credit is purchased. Members can use the online Service Credit Cost Estimator on the CalPERS Web site at www.calpers.ca.gov to get an estimate of this cost.

LEAVE OF ABSENCE

There are certain conditions in which some leaves of absence and some public employment may be creditable under CalPERS.

To receive this credit, a member's written request must be filed with CalPERS before their retirement is effective.

CERTIFICATION

When a member requests to purchase Service Credit for a Leave of Absence, they are provided with a **Request for Service Credit Cost Information – Leave of Absence** form (PERS-MSD-371). On this form, they indicate the prior employer information, including the period of employment and hours or time base worked per month. The member completes sections 1-3, and the employer completes section 4. Upon completion, the employer may return the form to the member or forward it to the employee's Worker Compensation carrier for Temporary Disability certification, as appropriate.

TEMPORARY DISABILITY LEAVE

Temporary disability leave is time off while receiving temporary disability payments because of a job-related injury or job-related illness.

Members must either return to active CalPERS membership or retire. There is no limit to the amount of time members may purchase.

EDUCATIONAL LEAVE OF ABSENCE

Educational leave of absence is time off to pursue higher education.

Members must be a State, University of California, or California State University employee both before and on their return from the leave. Members may purchase a maximum of two years' service credit (even if the combined total of your educational leaves exceeds two years).

SERIOUS ILLNESS LEAVE OF ABSENCE

Serious illness leave is an employer-approved uncompensated leave of absence because of a serious illness.

The employer must certify the member was approved for a leave because of their own serious illness. The member must return to active service with a CalPERS-covered employer following the leave. There is no maximum time a member can purchase.

SERVICE LEAVE

Service leave is time off to work with a college or university; a local, State, federal, or foreign government agency; or certain nonprofit organizations.

Members may purchase a maximum of two years' credit for each service leave. Members must return to CalPERS-covered employment after service leave. By law, some service leaves of absence are not eligible for CalPERS service credit, even if the employer gives prior approval.

CREDIT FOR ABSENCE FROM EMPLOYMENT FOR MILITARY SERVICE

G.C. sections 20990 through 20998 provide that a member who was absent on military service may be eligible to receive credit for the absence at employer cost. To be eligible for this service credit the member must have:

1. Been in the employment of a CalPERS covered agency prior to entering military service.
2. Been granted a military leave or have resigned from employment for the purpose of entering active duty in the armed forces.
3. Entered active duty within 90 days after leaving agency employment.
4. Returned to employment with the same agency, the State, or another agency contracting with CalPERS within six months after discharge from active duty. If the member did not return to employment within six months after discharge, they may be eligible to purchase this service credit.

LAYOFF, PRIOR SERVICE, AND OPTIONAL MEMBER SERVICE

CERTIFICATION

When a member requests to purchase Service Credit for layoff, prior service, or optional member service, they are provided with a ***Request for Service Credit Cost Information – Layoff, Prior Service & Optional Member Service*** form (PERS-MSD-372). On this form, they indicate the prior employer information, including the period of employment. The member completes sections 1-3, and the employer completes sections 4-6, as appropriate. If this employment is with the State or with a California State University, employer certification is not required and this form is sent to CalPERS for processing. Upon completion, the employer returns the form to the member.

LAYOFF

G.C. section 21022 allows certain local members, under specified conditions, to purchase service credit for a period of unemployment resulting from a layoff. The section only applies when a member previously laid off is then rehired by the same public agency and only when the public agency has contracted for this provision. No similar provision exists in the Public Employees' Retirement Law for State and school employees who have been laid off and are later rehired.

PRIOR SERVICE

Prior Service is service rendered before the date of contract between a public agency and CalPERS or for service rendered before the effective date a contract exclusion is removed, pursuant to G.C. section 20503, for those in previously excluded classes. Prior Service is also service rendered for the State of California before January 1, 1932, or for part-time State Employment between January 1, 1932 and September 19, 1939. (G.C. sections 20930, 20931, 20933, 20934 and 20972)

EXCEPTION – LOCAL SYSTEM

A former member of the local retirement system who withdrew any contributions prior to the effective date of that agency's contract with this system is entitled to credit for the service upon which those contributions were made if they elect to deposit any of those withdrawn contributions with this system under the terms and conditions

specified in G.C. section 20750. (G.C. section 20531)

OPTIONAL MEMBER SERVICE

Optional member service is time spent working in certain exempt, appointed, or elected positions that allow employees the option of joining CalPERS.

Employees can purchase service credit for optional member service if they are (or elect to become, if eligible) a CalPERS member. Employees cannot purchase service credit for optional member service if their employer did not contract for this option or are retired.

The following employees are considered optional members:

- A State employee who was appointed by the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction and is exempt from civil service.
- Some officials elected or appointed to a fixed term of office with a city or county (this may include city attorneys and elected/appointed officials of schools and contracting agencies; eligibility is determined by the dates of your term of office).
- An employee of the California State Senate or Assembly whose wages are paid from funds controlled by either body.

Employees must be an optional member on the date they request their cost information, and they must elect CalPERS membership at the same time. There are no limitations on the amount of time that can be purchased.

NOTE:

If they formerly held an optional position and are now a CalPERS member, they can also purchase their former service. See Service Prior to Membership for instructions.

CONTRACT EXCLUSIONS

If the requested employment is excluded by the employer's CalPERS contract, the purchase of this service credit is not possible. If the exclusion was removed or superseded by law after the employment was rendered, service credit rights would depend on the Government Code provisions under which the exclusion was removed.

PAYMENT METHODS

A member may elect, at any time prior to retirement, to make contributions for redeposit or other types of eligible service credit. If a member elects a cash lump-sum payment, no notification will be sent to the employer.

If a member files with the System an election to redeposit or contribute for service prior to membership or other "public service" by installment payments, the System will certify and approve the election and send the agency an authorization for payroll deductions.

No deductions should be made until the authorizing PERS-MEM-823A is received.

ADDITIONAL INFORMATION ON SERVICE CREDIT PURCHASE OPTIONS

REDEPOSIT OF WITHDRAWN CONTRIBUTIONS

Members of this System have the right to redeposit contributions previously withdrawn from CalPERS. The redeposit of withdrawn contributions restores service credit for previous employment. The member must redeposit the amount withdrawn, plus a sum equal to the interest which would have accrued had the member's funds been left on deposit. Interest will be charged from the first of the month following the date of withdrawal to the date of final payment. Payments may be made in one lump sum or by installment payments, or by a combination of an initial partial lump sum payment and the balance by installment payments. To receive this credit, a member's request must be filed with CalPERS before their retirement is effective (G.C. sections 20750 and 20752).

A member whose ex-spouse received a portion from the member's account as part of a community property judgment or settlement AND took a refund of the contributions, can redeposit those funds in CalPERS.

Exception – If the member's previous employers have terminated their contract with CalPERS, the member may not redeposit their withdrawn contributions.

To receive this credit, a member's request must be filed with CalPERS before their retirement is effective (G.C. sections 21020 and 21028).

ADDITIONAL RETIREMENT SERVICE CREDIT

G.C. section 20909 allows eligible members to purchase up to 5 years of additional service credit if the following eligibility requirements are met:

1. Members must be actively employed in compensated employment at the time they request cost information, on or after January 1, 2004.
2. Member must have a minimum of 5 years of earned service credit.
3. Employers do not need to contract for this service credit type.
4. Member may purchase service in whole year increments between 1 and 5 years.
5. This service credit cannot be used for retirement vesting, health benefits vesting, or to reach 10 years of service for enhanced disability retirement benefits.

AUTHORIZATION FOR CONTRIBUTION AND/OR RATE ADJUSTMENT PERS-MEM-823A (CALPERS-INITIATED FORM)

To certify the amount of contributions due from the employee for arrears, service prior to membership, redeposit, military service credit, partially compensated leave of absence or other instances when payment is due from the member.

SPECIAL INSTRUCTIONS

1. The PERS-MEM-823A is prepared by CalPERS. It authorizes your agency to take an extra deduction each service period for contributions due CalPERS from the member. Report the payment as a separate line entry on your payroll listing, using a Contribution Code 04 or 14. If the member has more than one payment with the same contribution code (04 or 14), payments can be reported together or separately. If the payments have a different contribution code (04 or 14), the payments need to be reported separately. If the member elects additional service credit all payments are to be taken concurrently, unless notified by CalPERS.
2. The amount of the payment is in addition to the normal contributions being reported each pay period.
3. Do not apply the changes in contribution rate and/or extra deductions prior to the effective date shown on the PERS-MEM-823A. Do not change payment amount, number of payments, or payroll reporting type without contacting CalPERS.
4. Contribution Code 04 and 14 deductions must not be reported unless authorized by a form PERS-MEM-823A.
5. It is the agency's responsibility to take only the number of Code 04 or 14 deductions authorized. CalPERS will not notify you to stop deductions. If the payments exceed the original schedule, the agency will be responsible for backing-out the overpayment(s) to CalPERS and refunding the member.
6. It is not necessary to return a copy of the PERS-MEM-823A to CalPERS to indicate deductions are being taken.
7. If a member pays the lump sum, a notification will be sent requesting the deductions be stopped with a specific pay period. It is the agency's responsibility to stop the deduction as of the specified pay period. If the member leaves employment at your agency, contact CalPERS immediately.



AUTHORIZATION FOR CONTRIBUTION AND/OR RATE ADJUSTMENT
PERS-MEM-823 A PAUC
Telecommunications Device for the Deaf - (916) 795-3240
Telephone: (916) 795-2031

EMPLOYER CODE		EMPLOYER			AGENCY UNIT CODE		MAILING DATE	
SOCIAL SECURITY NUMBER			MEMBER NAME				COVERAGE GROUP	
EFFECTIVE DATE	CONTRIBUTION TYPE			CONT. CODE	NO. OF PAYMENTS	PAYMENT AMOUNT	PAYROLL TYPE	

Instructions:

- Begin payments starting with the above effective date. If there is a change in the effective date notify CalPERS.
- The member elected _____ payments. Use contribution code ____ to report the payments.
- DO NOT change the payment amount or number of payment without authorization from CalPERS.
- If the member separates, contact CalPERS immediately.
- If you agency payroll reporting type changes, contact CalPERS. DO NOT change the payment amount without authorization.
- If the member has more than one payment with the same contribution code (04 or 14) payments can be reported together or separately. If the payments have a different contribution code (04 or 14), the payments need to be reported separately. If member elects additional service credit all payments are to be taken concurrently, unless notified by CalPERS.
- It's the agency's responsibility to ensure that the correct number of payments is reported to CalPERS. If payments exceed the original schedule, the agency will be responsible for backing out the overpayment(s) to CalPERS and refunding the member.

If you have any questions, please contact this office.

Election Processing Unit
Customer Account Services Division

THIS PAGE INTENTIONALLY LEFT BLANK